

# GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

We generally only deliver according to the following General Terms and Conditions of Sale and Delivery. We are not bound by the Buyer's purchasing conditions, even if we do not expressly object to them. Our terms and conditions of sale and delivery apply exclusively, even if the Buyer's order contains other own or additional conditions. The exceptional validity of other conditions – in particular the customer's conditions of purchase – requires an express written confirmation on our part. Th. Geyer shall be entitled to amend its Terms and Conditions of Sale and Delivery of 01/01/2013 with effect for the entire future business relationship with the Buyer after having given the Buyer appropriate notice. If there is a framework agreement between the Buyer and Th. Geyer, these General Terms and Conditions of Sale and Delivery shall apply both to this framework agreement and to the individual order.

## 1. Offer and acceptance

1.1 Our offers are subject to confirmation. Information relating to products in catalogues, documents or other product information such as illustrations, dimensions or technical descriptions are non-binding; we reserve the right to make changes to production, manufacturing and pattern technology. We are entitled to deliver modified or adapted products that deviate from an order, provided that their properties do not significantly affect the intended use of the product. Orders placed verbally or by remote data transmission are only binding for us if and insofar as we have confirmed them in writing, when we have sent the goods to the Buyer with the invoice or when the execution of the order has begun. Written confirmation is also required for changes, additions and verbal collateral agreements.

1.2 Supplementary clauses to the description of goods such as „approximately“, „as already delivered“, „as before“ or similar additions in our offers refer exclusively to the quality or quantity of the goods, but not to the price. Such information in orders is understood by us accordingly and, if applicable, the confirmation is meant accordingly.

1.3 Quantities are always considered to be approximate unless they are clearly specified by the type and nature of the product. Deviations of 10 % downwards or upwards due to safety and filling are deemed to be in accordance with the contract. Such differences in quantity are fully taken into account in the invoice total.

1.4 For small orders with a current value of less than EUR 50.00 plus statutory VAT, we charge a flat rate of EUR 10.00 for processing and handling (plus statutory VAT).

## 2. Cancellation of orders or return of goods

If an order is cancelled prior to delivery, we are entitled to charge the Buyer for all costs arising from the cancellation. This applies both to costs incurred by our suppliers and to those incurred in our company. The return of faultless goods may only be sent back to the recipient's address free of charge with our consent; the return of hazardous goods must be specially agreed with us.

## 3. Purchase price and payment

3.1 Our prices are always subject to the statutory value added tax. Prices in catalogues distributed by us, on data carriers or on our Internet pages are non-binding guide prices without statutory value added tax. We charge in Euros at the prices valid at the time, taking into account statutory value added tax. In the case of large quantities and/or production chemicals, the calculation is based on the quantities or weights determined by us or our supplying plant. However, the calculation can be based on the quantities or weights determined by the recipient if the determination has been made by means of calibrated scales and the goods have been transported at our risk.

3.2 Unless otherwise agreed, the purchase price is due for payment immediately upon delivery of the goods. Invoices for repairs or other services rendered are due immediately.

3.3 In the event of default of payment, we reserve the right to charge interest at a rate of 8 % above the base rate in accordance with 247 BGB.

3.4 In the event of a delay, we may claim further damages caused by the delay.

3.5 Bills of exchange and cheques are only accepted instead of performance; they are deemed to be payment when they have been cashed. Customary bank charges shall be borne by the Buyer.

3.6 The Buyer may only offset our purchase price claim against undisputed or legally established claims with our express consent. Merchants may withhold the purchase price due to material defects until we have decided on the justification of the notice of defects; furthermore, only if the Buyer provides sufficient security. Non-merchants may not retain the purchase price due to notices of defects from another contract than the one from which the purchase price claim originates.

3.7 If the Buyer defaults on payment of one of our invoices in an amount not insignificant for the business relationship, all our claims arising from the business relationship shall become due immediately - irrespective of any acceptance of bills of exchange. We are then further entitled to demand cash payment before any further delivery. If the delay in payment is not remedied even within a reasonable period of grace, we shall be entitled to withdraw from the contract and/or to claim damages for non-performance. This applies in particular to agreed but not yet executed follow-up business. If facts become known to us which indicate that the Buyer is no longer creditworthy, we are entitled to demand cash payment before delivery of the goods, even if something else was agreed beforehand, and to make our claims due.

3.8 The following applies to our invoices: The performance date corresponds to the delivery note date indicated on the delivery note, unless otherwise stated.

## 4. Delivery

4.1 The delivery times stated in offers and orders are always non-binding unless a fixed date for delivery has been expressly agreed.

4.2 In the case of deliveries which do not affect our business (drop shipments), the delivery date and period shall be deemed to have been met if the goods leave the supplying plant in good time so that the delivery arrives at the recipient's premises in good time, given normal transport times.

4.3 Events of force majeure - including public law restrictions as well as strikes and lockouts - entitle us to withdraw from the contract. Compensation for damages due to non-fulfilment or delay is excluded in such cases. This shall also apply in the event of untimely delivery by our suppliers for which we are not responsible. We are obliged to inform the Buyer of such events without delay. The Buyer is then also entitled to withdraw from the contract.

4.4 If we are in default of delivery, the Buyer is entitled to set a reasonable grace period and, if this period expires without result, to withdraw from the contract. The Buyer can only claim damages for non-performance after the unsuccessful expiry of the grace period if the delay in delivery has occurred due to intentional or grossly negligent behaviour of our legal representative or one of our vicarious agents.

## 5. Dispatch and acceptance

5.1 The risks of transport from the place of delivery are always borne by the Buyer, even in the case of carriage paid deliveries or deliveries ex works, unless we carry out the transport with our own vehicles from our factory or warehouse.

5.2 In the case of collection from the delivery point, the Buyer or its agent are responsible for loading the vehicle and compliance with the legal regulations concerning the transport of hazardous goods.

5.3 Unloading and storage of the goods is in any case the responsibility of the Buyer.

5.4 Insofar as our employees also assist with unloading and cause damage to the goods or other damage in the process, they act at the sole risk of the Buyer and not as our vicarious agents.

5.5 The above provisions shall apply mutatis mutandis to deliveries by third party carriers, insofar as the seller's liability could be derived from their conduct. The liability of third parties remains unaffected.

## 6. Packaging

6.1 Delivery is usually made including manufacturer's packaging and, if necessary, additional packaging at a separate charge. The return of packaging within the scope of the legal regulations is only possible after prior consultation with us.

6.2 If our deliveries are made in returnable containers, these must be returned to us in an empty (drip-free, trickle-free, spatula-cleaned), faultless condition within 4 weeks of arrival at the Buyer's premises at the latest. The return transport must be agreed with us in advance. The costs of the return transport shall be borne by the Buyer.

6.3 If the Buyer does not fulfil the obligations mentioned under 6.2 in due time, we shall be entitled to charge a reasonable fee for the time exceeding 4 weeks and, after unsuccessfully setting a deadline for return, to demand the replacement price by offsetting the aforementioned fee.

6.4 The affixed labels must not be removed. Loaned packaging may not be exchanged or filled with other goods. The Buyer is liable for reductions in value, exchange and loss without regard to fault. The date of receipt at our company is decisive. Use as a storage container or transfer to third parties is not permitted unless this has been agreed in advance.

## 7. Disposal obligations according to the Electrical and Electronic Equipment Act

Insofar as the goods are electrical or electronic equipment within the meaning of the German Electrical and Electronic Equipment Act (ElektroG), the customer shall assume the proper disposal of the goods at its own expense after termination of use.

The customer shall indemnify Th. Geyer from any obligations pursuant to 10 para. 2 ElektroG and any related claims by third parties.

The customer must contractually oblige commercial third parties to whom it passes on the delivered goods in writing to dispose of them properly in accordance with the statutory provisions at their expense after termination of use and to impose a corresponding further obligation in the event of renewed passing on of the goods. If the customer fails to contractually oblige third parties to whom it passes on the goods to assume the obligation to dispose of the goods as well as further obligations and to document this in writing, the customer is obliged to take back the goods at its own expense after they have been used and to dispose of them properly in accordance with the statutory provisions.

Th. Geyer's claim for acceptance and indemnification by the customer shall not become statute-barred before the expiry of two years after the final termination of the use of the goods (limitation period). The two-year limitation period begins at the earliest upon receipt of a written notification from the customer regarding the termination of use.

## 8. Retention of title

8.1 Ownership of the goods shall only pass to the Buyer upon full payment of the purchase price and all other claims, including future claims arising from the business relationship with us. This shall also apply if payments are made for specially designated claims. In the case of a current account, the reserved property is deemed to be security for our balance claims. Ownership is transferred to the Buyer at the latest at the point in time at which we no longer have any undisputed claims against him.

8.2 As long as the Buyer duly fulfils its obligations to us, it is authorised to continue using the reserved goods in the normal course of business.

8.3 If the Buyer does not meet its payment obligations even after setting a grace period threatening withdrawal, we are entitled to withdraw from the purchase contract without setting a further grace period and to demand the return of the reserved goods. Taking back the reserved goods shall only constitute a withdrawal from the contract if we declare this in writing.

8.4 Any treatment or processing of the goods subject to a retention of title shall be carried out on our behalf without any obligation on our part. We shall be deemed to be the manufacturer within the meaning of §950 BGB (German Civil Code) and shall acquire ownership of the intermediate and end products in the ratio of the invoice value of our reserved goods to the invoice values of third-party goods; the Buyer shall hold them in safekeeping for us in trust and free of charge. The same shall apply in the event of combining or mixing within the meaning of §947, 948 BGB (German Civil Code) of goods subject to a retention of title with third-party goods.

8.5 The Buyer hereby assigns to us the claims against third parties arising from the resale of the reserved goods as security for all our claims. If the Buyer sells goods in which we have only proportional ownership according to lit.

8.6, it shall assign to us claims against the third parties to the corresponding partial amount. If the Buyer uses the goods subject to a retention of title within the framework of a contract for work and services (or similar), it assigns to us the (work compensation) claim in the amount of the invoice amount of our goods used for this purpose.

8.7 In the ordinary course of business, the Buyer is authorised to include the claims arising from the further use of the reserved goods. If we have concrete cause for concern that the Buyer does not properly fulfil or will not properly fulfil its obligations to us, the Buyer shall, at our request, inform its customers of the assignment, refrain from any disposal of the claim, give us all necessary information about the stock of the goods in our ownership and the claims assigned to us and hand over the documents for asserting the assigned claims. We must be informed immediately of any access by third parties to the goods subject to a retention of title and assigned claims, in particular attachments and other seizures.

8.8 If the value of the securities to which we are entitled exceeds the total claim against the Buyer by more than 10 %, we are obliged to release securities of our choice to this extent at the Buyer's request.

## 9. Warranty rights, inspection and complaint obligations of the Buyer

9.1 In the case of material defects and defects of title, which also include the absence of warranted characteristics, we are obliged to provide subsequent performance within a reasonable period of time to merchants. If it is not possible for us to provide supplementary performance free of defects within the specified period, the Buyer can demand a reduction in the purchase price or withdraw from the purchase contract.

Buyer's inspection obligations:

- The Buyer must inspect the goods and their packaging immediately upon delivery in accordance with standard commercial practice. If the goods are delivered in packages, it must always check the labelling of each individual package for conformity with the order.
- The Buyer shall immediately give written notice of any defects discovered during the inspection pursuant to 9.1.
- If the Buyer fails to carry out the respective inspection or if it does not immediately give notice of a detected or detectable defect, it shall lose its warranty rights with regard to the detected and/or detectable defects. The same applies in the event of an erroneous wrong delivery, even if the deviation is so significant that approval of the goods by the Buyer had to be considered impossible.
- In the case of a hidden defect, the Buyer must give notice of the defect immediately after its discovery. Otherwise, the goods shall also be deemed to be approved in this respect. The complaint of a hidden defect is in any case excluded after 2 weeks after receipt of the goods. A claim for replacement delivery due to wrong delivery remains unaffected.

9.2 In the case of material defects and defects of title, which also include the absence of warranted characteristics, we are obliged to provide subsequent performance within a reasonable period of time to non-merchants. If it is not possible for us to provide supplementary performance free of defects within the specified period, the Buyer can demand a reduction in the purchase price or withdraw from the purchase contract.

Buyer's inspection obligations:

- The non-commercial buyer has the same examination and inspection obligations as the merchant (see above 9.1). However, the knowledge requirements for the sample are not based on commercial practice but on the knowledge which the Buyer can be expected to have on the basis of its commercial position.
- The Buyer shall immediately give written notice of any defects discovered during the inspection pursuant to 9.1. Otherwise, defects must be reported in writing within 6 months.

- If the Buyer fails to carry out the respective inspection which is reasonable for it or if it misses the deadlines for notification of defects applicable to it, it loses its warranty rights with regard to the detected and/or obvious defects.

9.3 The respective conditions of the manufacturers are decisive for guarantee and/or goodwill services.

9.4 Rejected goods may only be returned with our express consent.

## 10. Liability for consequential and other damages

10.1 We shall be liable as follows for damage to the Buyer's legal assets, including its financial assets, caused by defects in the purchased goods, incorrect delivery or defects in packaging:

Insofar as damage could have been avoided by compliance with the Buyer's inspection obligations, any kind of liability on our part towards merchants and legal persons under public law is excluded, unless the damage is due to intentional behaviour on the part of our legal representatives. Under the same conditions any liability is excluded towards non-merchants, unless the damage is due to intentional or grossly negligent behaviour on our part.

Insofar as damage occurs despite compliance with the Buyer's inspection obligations, we shall only be liable to merchants and non-merchants alike for intentional or grossly negligent breach of contract.

10.2 We shall only be liable for damages other than those regulated above - irrespective of the reason for liability - if they have been caused by an intentional or grossly negligent act on our part or on the part of one of our vicarious agents.

10.3 We are not liable for the suitability of the goods for the purposes intended by the Buyer. Insofar as we give advice, information or recommendations etc. regarding application technology, we shall only be liable for culpably incorrect advice, information or recommendation if it has been given in writing. Our advice does not release the Buyer from the mandatory requirement to inspect the delivered product on its own responsibility for its suitability and quality before use.

10.4 All claims within the meaning of this section 10 shall become statute-barred six months after the act causing the damage, with the exception of tortious claims.

## 11. Place of performance, place of jurisdiction, applicable law

11.1 Unless otherwise contractually agreed, the place of performance for our obligations as well as the customer's payment is the registered office of our respective branch. The place of jurisdiction is, as far as legally permissible, the registered office of our branches.

11.2 The contractual relationship shall be governed exclusively by the law of the Federal Republic of Germany, excluding private international law, standardised international law and excluding the UN Convention on Contracts for the International Sale of Goods.

## 12. Patent claims, property rights

The seller does not guarantee that the use or the sale of the products supplied under these General Terms and Conditions of Sale and Delivery does not constitute an infringement of patents in the Buyer's country or other countries with regard to the product itself or its use in combination with other products or in the performance of any processes. Samples, models, sketches, drafts etc. which we have created or produced for customers remain our property unless separate agreements have been made with the customer.

## 13. Data privacy

We are entitled to store customer data within the framework of the applicable legal provisions, in particular the German Federal Data Protection Act, and to process it internally within the company.

## 14. Effectiveness of individual provisions

Should any of the above clauses be or become invalid, the validity of the other provisions shall remain unaffected.

Exceptions 55, 72 and 35

The hazardous goods we transport are approved for road transport in accordance with the provisions of the ADR and packed in accordance with the provisions of the ADR.

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