

General terms and conditions

I. Scope

1. These terms and conditions are valid for all – also future – deliveries and performances. The general terms and conditions of the client are only effective if we recognize them for the respective contract conclusion in written form.
2. Our sales conditions are also valid if we conduct the delivery for the client without reservation having the knowledge of conflicting conditions or conditions which deviate from our sales conditions.
3. Our reservations are only valid towards companies in the sense of § 310 section 1 of the German Civil Code.

II. Offer and conclusion

1. Our offers are without engagement. All agreements only become legally effective by means of our written confirmation.
2. The information, drawings, illustrations, technical data, weight, measurement and performance descriptions included in brochures, catalogues, circulars, advertisements, price lists or in the documents belonging to the offer are not binding if we do not expressly describe them as binding in the contract confirmation.
3. All information about our products are approximate average values. They are no quality protection. Customary deviations (fabrication tolerances) are admissible as well as additional and short shipments until 5 %. Samples at customer specific makings are non binding samples for inspection. The quality of the samples are not regarded as guaranteed.
4. We reserve our property right and copyright claims of utilization for estimates, drawings and other documents in an unrestricted manner for ourselves. The documents may only be made available to third parties after our previous approval and have to be returned on demand if we do not receive the contract.
5. We reserve the right of modifications if these are reasonable for the client.

III. Prices

1. Our prices are valid “ex works” plus packaging, freight and legal value-added tax if there are no other agreements.
2. If no fixed price has been agreed and if the contract has a term of more than two months, the prices which are valid on the day of delivery are calculated according to the price list.

IV. Time of delivery and performance

1. The beginning of the delivery time indicated by us requires the clarification of all technical data.
2. For keeping the deadlines and time limits of delivery the time of sending the goods ex works or ex warehouse is decisive. Time limits and deadlines are already regarded as kept with the announcement of dispatch willingness if the goods cannot be sent in time without our fault.
3. The delivery deadlines are extended by the time period in which the client does not fulfil his contractual obligations – also other duties to cooperate – towards us. This correspondingly applies to delivery deadlines.
4. Events of force majeure entitle us to postpone the delivery by the duration of obstruction and an adequate preparation time. If the implementation of the contract becomes unacceptable for one of the parties, it can withdraw from the contract in such a case. This does not apply to partial deliveries of framework agreements. All circumstances are equal to force majeure which make the delivery much more difficult or impossible for us, like for example, currency or trade political or other sovereign measures, strikes, lockouts, operational disturbances (for example, fire, machine defect, shortage of raw material or energy) as well as obstruction of traffic ways, disregarded the fact whether these circumstances occur at our company, at the delivery plant or at a sub-deliverer.
5. If we fall behind the payment, the client can demand a compensation for each completed week of delay of respectively 0.5 %, however, altogether at maximum 5 % of the price for the part of deliveries, which could not be appropriately put into operation due to delay provided that he makes plausible that a damage has resulted for him.

V. Dispatch, passage of risk and part delivery

1. For the lack of special agreement packaging, dispatch way and transport means are selected by us.
2. Goods which are ready for dispatch have to be immediately delivered. Otherwise we are authorized to dispatch them according to our choice or to store and immediately to calculate them at costs and risk of the client.
3. By transferring the material to a forwarding agent or haulage contractor, at the latest when leaving our warehouse, the risk is passed to the client even in case of delivery free domicile.

VI. Terms of payment

1. The invoicing is conducted with the delivery of goods. If there are no other conclusions from the contract confirmation, the purchase price net (without any deductions) is due to pay within 30 days from the invoice date.

2. Payments are credited against the oldest debt. The date of payment entry is decisive for us.
3. The client is entitled to a right of retention to such an extent that his counterclaim is based on the same contractual relationship.
4. The counterbalancing with counterclaims is only admissible to such an extent if this is regarded by us as existing and due or determined as legally effective.
5. In case of a delayed payment the client has to pay interests to an amount of eight percentage points above the respective basis rate (§247 German Civil Code) from the due date. The assertion of more extensive claims in case of payment delay remains reserved.
6. If the client does not fulfil his payment obligations or if we are informed about circumstances which are adequate according to dutiful, business discretion to doubt his credit rating all our debt claims, also if we have accepted bills of exchanges for them, immediately become due and payable. We are only obliged to make further deliveries in this case if the client offers payment in advance.

VII. Reservation of ownership

1. All delivered goods remain our property (conditional commodity) until fulfilment of all claims from the business connection, even if payments are made for especially designated claims. In case of current invoice the reserved property is regarded as securing of our balance claim.
2. If the goods are seized by a third party, the client is obliged to inform the public law enforcement official about our reservation of ownership and to immediately inform us about the attachment by means of a registered letter. If the third party is not in a position to reimburse us the legal and out-of-court costs of an action according to § 771 Code of Civil Procedure, the client is liable for the resulting failure.
3. The processing or conversion of the purchase matter by the client is always carried out for us. In case of processing other goods, which do not belong to us, we are entitled to the joint ownership of the produced object in relation to the invoice value (final invoice amount including VAT) of our processed conditional commodity in addition to the amount of the invoice values of all other goods used for the production. For the object resulting from the processing the same applies as for the purchase matter delivered with reservation.
4. If our goods are inseparably mixed up or connected with other objects which do not belong to us, we acquire the joint ownership of the new matter in relation to the value of the purchase matter (final invoice amount including VAT) compared to the other mixed objects at the time of mixing up. If the mixture is carried out in a way that the matter of the client has to be regarded as main matter it is considered as agreed that the client proportionally transfers joint ownership. The customer keeps the resulting sole ownership or joint ownership for us free of charge.
5. The client may only sell or process the conditional commodity in the usual business transaction at his normal business conditions and as long as he is not in delay. He is only entitled to resale if the demand from resale together with supporting rights is passed to us within the scope resulting from the following paragraphs. He is not entitled to other dispositions.
6. The claims of the client from resale of the conditional commodity together with all supporting rights are already being transferred now to full amount and for safety reasons, which means immediately, whether they are sold to one or several purchasers. We accept the transferring. If the conditional commodity is sold by the client together with other goods, which do not belong to us, the claim is only transferred to us to the size of our invoice amount.
7. If the conditional commodity is sold after connecting or mixing or processing with other goods, which do not belong to us, there is only a transfer to an amount of our joint ownership share of the sold matter or the sold inventory. The client is entitled to collect the claims transferred to us until revocation or as long as he does not get into delay towards us.
8. If our claims become due and payable according to VI.6 or if the client violates the duties, for which he is otherwise responsible, we are entitled,
 - a) to revoke the authorization for sale or processing/handling or for integrating the conditional commodity and collecting the claims transferred to us
 - b) to demand the surrender of the conditional commodity without the fact that the client is authorized to a right of retention against this claim of surrender
 - c) to inform the third-party debtors about the transfer.
9. The client obliges himself to give the information which are necessary for the assertion of our rights in a cost-free manner and to submit the required documents for this.
10. We oblige ourselves to release the securities, which are entitled to us, on request of the client to such an extent that the realized value of our securities exceeds the claims by more than 10 %; we are responsible for the selection of the securities that are to be released.

VIII. Letter of complaint and warranty

1. The subject matter of contract is exclusively the sold product with the qualities and specific features according to our contract confirmation. In case of customary deviations of the delivered goods of the contract confirmation there is no deficit. The same applies to an unessential deviation from the agreed quality or unessential restriction of the suitability. There is no deficit in case of colour deviations of the synthetic material. The same applies to deviations in the implementation and number of customer specific

- parts.
2. We have to receive letters of complaint immediately after entering and examining the goods in written form. If any deficits occur, the processing has to be stopped immediately.
 3. If the client does not give us the opportunity to convince ourselves of the deficit at once, if he does not make available the goods, about which complaints were made, or samples of them immediately especially on demand, all claims for deficit are being annulled.
 4. If there is a deficit of the purchase matter we are entitled to post fulfilment in form of a removal of deficits or to delivery of a new deficit-free matter. In the case of the deficit removal we are obliged to carry all expenses which are necessary for the purpose of deficit removal, in particular, transport, way, working and material costs, if these are not increased by the fact that the purchase matter was transferred to another place than the place of fulfilment.
 5. If the post fulfilment fails the client is entitled according to his free choice to demand withdrawal or reduction.
 6. We are liable in accordance with the legal provisions if the client asserts claims, which are based on intention or gross negligence, including intention or gross negligence of our representatives of fulfilment assistants. If we are not accused of any intentional contract violation the liability for compensation in damages is restricted to the foreseeable, typically incurring damage.
 7. We are liable according to the legal provisions if we culpably violate an essential contract obligation; in this case, however, the liability for compensation in damages is restricted to the foreseeable, typically incurring damage.
 8. The liability due to culpable violation of life, body or health remains unaffected; this does also apply to the compelling liability according to the production liability law.
 9. Unless there are any deviating provisions aforementioned, the liability is excluded.
 10. Claims of faults and defects which are made towards us are time-barred within one year after delivering the goods to the client or to the place of delivery determined by him.
 11. In case of goods, which have been sold as downgraded material, the client is not entitled to assert a claim due to possible defects or faults.

IX. Liability and limitation of liability in time

1. A more extensive liability for compensation in damages than provided in clause VIII. - without consideration of the legal nature of the asserted claim – is excluded. This especially applies to claims for damages due to fault at contract conclusion, due to other duty violations or due to delictual claims for compensation of damages to property in accordance to § 823 German Civil Code.
2. The restriction according to paragraph 1 is also valid if the customer demands compensation of useless expenses instead of a claim for compensation of the damage for performance.
3. If the liability for compensation in damages is excluded or limited towards us, this also applies to the personal liability for compensation in damages of our employees, staff, colleagues, representatives and fulfilment assistants.
4. All claims against us are time-barred within one year at the latest, if no shorter limitation periods are provided by law or are agreed by means of these business conditions.

X. Place of jurisdiction and applicable law

1. If the customer is a businessman, our registered office is the place of jurisdiction. However, we are authorized to proceed against the client at his general place of jurisdiction.
2. The contract exclusively is subject to the laws valid in the Federal Republic of Germany excluding the UN-purchase right (CISG – convention on contracts for the international sale of goods).

Hartmann Codier GmbH