

1. Scope, validity of agreements:

All orders to and agreements with seller shall not be binding for same, unless he will have confirmed them in writing, duly signed with his firm or carried them out and they shall only be binding for seller within the scope stated in the order confirmation of same. Also, any alterations conveyed to seller regarding previous orders or agreements shall only be binding for him/her after his/her written acknowledgement thereof by order confirmation. Purchasing terms of the buyer/s shall only be applied to the subject contract or any business relationship between the parties thereof insofar as they do not contradict these present terms and conditions for sales and delivery. Tenders from seller are on principle without engagement.

2. Prices, Terms of Payment:

Unless expressly otherwise agreed, all prices shall be understood to be ex works, packing cost not included. Any additional cost as well as losses incurred by seller due to chances of the legal situation in the country the goods are to be delivered to regarding e. g. import regulators, payments abroad, exchange rates or devaluation of foreign currencies etc. shall be borne by the buyer. Any such cost or losses shall therefore be fully invoiced to buyer who shall not be entitled to withdraw from the contract on this account. Even if it has been agreed that prices are inclusive of normal inland packing, cost for special packing requested by buyer or considered necessary by seller shall be separately charged to buyer. Packages may not be returned to seller. All cost of carriage and insurances requested by buyer shall be invoiced to him/her.

3. Delivery, Inspection, Default of Acceptance:

Terms and periods of delivery, unless expressly agreed to be binding, shall anyways be considered as approximate, seller only having to advise buyer in writing when deliveries will be more than 4 (four) weeks in advance of or beyond times provided. Compliance of seller with delivery terms and periods is subject to the buyer's fulfilling first payments and any other obligations he may be held to meet prior to delivery. Seller shall be entitled to make partial- or advance deliveries. Buyer is held to take delivery of the goods immediately upon their completion. Regardless of the way of their dispatch goods shall be considered as delivered the day they have left seller's factory or distributing depot and in case of buyer's default of acceptance, on the day of seller's statement that goods are ready for delivery, and therewith all risks pass to buyer. Place of performance for delivery of goods by seller shall be the factory or distribution depot fixed by same and for payments by buyer and all other performances of both parties the seat of seller's principal establishment. Storages necessary for reasons buyer is answerable for shall be to the charge of same and shall be considered as deliveries made.

If under special agreements goods are to be inspected, such inspection shall be made at seller's factory. Expenses and cost incurred in the factory for such inspections shall be borne by seller, whilst traveling expenses and cost of stay of buyer, representatives of same and of inspectors as well as inspection fees shall be to the charge of buyer. If buyer fails to make the agreed inspection at the factory the goods shall be considered as having been inspected with their leaving of the factory. All risks pass to buyer as soon as the goods have left the factory or the time provided by Incoterms, the parties may have agreed upon and, in any case, with buyer's default of acceptance.

If buyer does not give instruction required for dispatching the goods or if he does not take delivery thereof promptly he/she shall be in default of acceptance with all legal consequences thereof. Loading and transportation of the goods shall always be at buyer's risk, regardless of cost hereof being comprised in the purchasing price agreed. In case buyer is in default of acceptance or if delivery has been postponed upon buyer's request, all risks shall pass to buyer the day seller has announced he is ready to deliver and the delivery shall be considered as having been effected the day of such announcement.

4. Payment:

The "Uniform Customs And Practice For Documentary Credits" published by the International Chamber of Commerce shall apply in their respective versions. Invoiced amounts shall be paid without any deductions within 14 days from the date of the invoices. Payment shall be effected in the currency contracted and stated in the invoice, by transfer to one of seller's bank accounts mentioned in the respective invoice of same. Payment shall be effective the day it was entered to the credit of seller's account. Payments by checks or by bills of exchange shall only be acceptable by special agreement and then only subject to being cashed. Additional charges resulting therefrom shall be borne by buyer. If payment by letter of credit will have been agreed upon seller shall only accept irrevocable letters of credit, confirmed by an Austrian bank agreed upon with seller and with all expenses pertaining thereto being borne directly by buyer without any charges to seller. The observance of payment terms agreed upon shall be an essential precondition for seller's effecting deliveries respectively performance of the contract. In case payments are delayed, buyer shall be charged default interest at the rate of 1.5% per month, but at least of 3% above the current discount rate of the Österreichische Nationalbank (i. e. the Austrian federal reserve bank). If in a sale with deferred payment a sum amounting to two installments will not have been paid in time, seller shall be entitled to declare and claim as due his entire outstanding debts and to make payable bills he is holding for coverage thereof. Buyer shall not be entitled to withhold payments on account of incomplete delivery, claims under guarantees, legal warranty or for defects of the goods, nor may buyer set off whatever counterclaims of his against seller's claims. Besides the above default interest seller is entitled to claim from buyer an additional amount in coverage of refinancing-expenses in the country of buyer or of the destination of goods, that may exceed such interest, all this notwithstanding seller's right, herewith expressly reserved, to raise any further claims he may have. Seller shall decide at his free discretion which of the outstanding debts are not to be settled by any payments of buyer, even if buyer may have specifically provided otherwise. On principle payments shall cover first all accrued cost and interest and only thereafter principal amounts invoiced. Losses seller may incur due to changes of import regulations, conditions for payments abroad or rates of exchange or due to devaluation shall be charged to buyer. If payments in foreign currency are delayed, disadvantages to seller due to alterations of exchange rates shall be charged to buyer.

5. Reservation of Title:

Seller shall retain all property rights regarding the goods ordered until buyer will have met all his financial obligations resulting from his/her order. If the goods are seized or otherwise claimed by third parties buyer shall be held to assert seller's property rights, advising seller immediately thereof. Buyer shall take care at his own cost that the goods be properly maintained pending such differences. Buyer may not mortgage nor sell on goods of seller's not yet fully paid unless seller will have expressly agreed thereto. Upon seller's request buyer shall be held to assign to seller, for coverage of all debts toward same from their business relations, all claims buyer may have from having resold seller's goods or goods for the production of which they may have been used and also to stipulate reservation of title regarding such goods with his buyers thereof. In case of buyer's not fully complying with contractual obligations seller shall be at any time entitled to take back his goods without any formalities and at buyer's cost and buyer shall have to return them. This shall also apply if buyer has become insolvent. In any such cases buyer shall be held to pay charges for using the goods amounting to 7,5% per month of the invoiced value of the order.

6. Warranty:

The period of warranty shall be of six months.

Defects properly notified of goods sold shall be remedied by seller's either repairing them or replacing defective goods. If such repair or replacement does not prove effective, buyer may demand a reduction of the price for the defective goods. The warranty period commences the day of delivery of the goods. Buyer is held to inspect the goods immediately upon having received them and to notify within 14 days any defects thereof he may have ascertained. There shall be neither repair nor replacement of damages or defects due to deterioration through use and wear, deficient maintenance or wrong use or to circumstances not pertaining to normal operating conditions. Repairs made on buyer's own initiative shall exonerate seller from his obligations of warranty. Claims for warranty may only be raised by buyer personally. The original period of warranty shall not be extended (nor recommence) due to any repairs of defects. If goods delivered have been manufactured in compliance with buyer's order according to specifications, designs or models etc. seller shall not be responsible for the correctness of the construction but only for the goods having been manufactured in conformity with such specifications, designs, models, etc. Also seller shall not be liable for any defects of materials provided or prescribed by buyer or for any defects that may be caused by such materials. Buyer shall be held to comply with „general storage and operating instructions“, failing which seller shall be exonerated from warranty.

7. Liability:

Seller's liability shall be excluded for any damages ensuing from defects of goods delivered as well as for indirect damages and for losses of profit incurred by buyer. Also seller shall not be responsible nor held to grant any compensation whatsoever for any damages nor any losses of capital or interest due to machinery defects and/or disturbances delayed deliveries and duration of spare parts deliveries, unless they are due to deliberate or grossly negligent fault of seller. Goods objected to may only be returned to seller with the prior and express consent of same and at buyer's cost and risk. Seller shall not be responsible for any defects caused by materials prescribed or provided by buyer. Buyer shall be held to exonerate seller from and to indemnify him for any claims under producer's liability that may arise from buyer's distribution of seller's goods if such claims are higher than, or different from, claims possible under the law of the place where goods had been manufactured. Seller shall not be responsible for damages or disadvantages of any kind that may be caused by or in connection with defects of goods, unless such damages or disadvantages be due to a deliberate or grossly negligent faulty comportment of seller, the burden of proving such comportment lying with the claimant. This clause disclaiming liability shall apply in particular to all claims under producer's liability law and also in favor of seller's subcontractors. The period of limitation for Court action for damages, inclusive of damages claimable under producer's liability law, shall be restricted to one year from the damages having arisen. Such restriction shall not apply to claims by seller. The buyer is held to pass on to his/her customers, with binding effect for them, the foregoing restrictions of seller's liability and of the period of prescription, and buyer shall be held to obligate them that they pass on their customers, with binding effect for same, such restrictions.

8. Force Majeure:

Acts of God or other circumstances unforeseeable and unpreventable for seller or for subcontractors of same shall entitle seller to postpone delivery dates until such disturbances be over or to cancel his delivery obligations parlay or completely, wherefore buyer shall not have any claim for compensation.

9. Final Provisions:

Buyer shall be held to observe the rights of third parties, so that patents, trade marks, registered patterns and designs, copy rights, etc. be not infringed upon by buyers quality- or other requests, nor by the use of designs, models, patterns or similar aids buyer may place at seller's disposal. Buyer shall be held to exonerate seller from and to indemnify same for any claims under such protected rights third parties may raise against seller.

The provisions of Incoterms as published by the International Chamber of Commerce in their respective versions shall apply, insofar as provisions herein do not differ therefrom. All communications, notifications, reminders, fixations of time limits, notifications of defects as well as all other legally relevant statements in relations between seller and buyer shall have to be in writing in order to be legally effective.

The place of fulfillment for all performance under the contract(s) is Ladendorf/Austria even if by agreements the goods shall be delivered to another place. The contract(s) and all legal relations between seller and buyer resulting from deliveries and/or other performances of seller shall be exclusively construed under and governed by Austrian law. Exclusive jurisdiction has been attributed to the Law Court competent *ratione materiae* having jurisdiction over 1010 Vienna, Austria (the city of Vienna, first district). Seller shall, however, be entitled to bring action also before any other Court to the jurisdiction of which buyer may be amenable.