

GENERAL

The following conditions apply to all our deliveries and services and to all our offers and contracts in respect of the deliveries and services to be rendered by us. These conditions also apply to all our future declarations, offers and contracts even if they have not been expressly agreed again. The Buyer's conditions to the contrary that we have not expressly acknowledged in writing shall be completely non-binding for us and shall not be deemed an element of the contract even if we do not expressly reject them.

I OFFER, ENTERING INTO CONTRACTS

Our offers are non-binding and subject to change without notice at all times in respect of details of quality, price, quantity, delivery periods and availabilities. Documents made available by us such as drawings, drafts and other patterns and originals are surrendered on a loan basis and remain our property. Orders placed by the contracting party are binding. Verbal agreements or agreements by telephone and telegram shall only be valid if we subsequently confirm these in writing. These shall only become binding once we have confirmed them in writing.

II SUBJECT MATTER OF CONTRACT, POURABLE GOODS COMPATIBILITY, DELIVERY, PERFORMANCE

We undertake to render the agreed services in accordance with the contractual agreements, the latest developments in science and technology available at the time the contract is entered into and the principle of efficiency. We reserve the right to make insignificant modifications in respect of manufacturing or technical progress and variations that are customary in the trade in quantity, weight, measurements, material composition, material structure, surface and colour compared with the sample, offer in brochures, price lists or the contract insofar as these are in the nature of the used materials, do not affect the intended use or the usability and are acceptable to the Buyer. We shall not be liable for the compatibility of our goods with the Buyer's pourable products in respect of chemical resistance, statutory requirements and physical qualities. We are permitted to assign to suitable and qualified subcontractors services in accordance with this contract in full or in part. The Customer undertakes to carry out pourable product compatibility trials and store sample packaging once at a high temperature and once at a low temperature to test whether our packaging materials are suitable for the planned pourable products and are compatible with such products. The Supplier does not guarantee the suitability of the goods for a certain intended use. Stated dates and periods are non-binding insofar as nothing to the contrary was expressly agreed upon. Our delivery period shall commence upon forwarding confirmation of order to the Buyer. However, as a general rule the start of the delivery period stated by us presupposes that all technical issues and details in respect of design have been clarified by way of the Buyer honouring its duty to collaborate. The delivery period shall be deemed met if the Supplier has dispatched the goods on the last day of the agreed period. Partial deliveries and partial services are permitted. All delivery and performance dates are subject to the provision of own deliveries in good time. If the failure to meet the agreed delivery period is based on force majeure such as war, natural disasters etc. or events such as strikes etc., the delivery period shall be extended accordingly. The Buyer undertakes to accept the goods as long as they are available for hand-over. We shall, where possible, abide by the quantities stated in the confirmation of order. Appropriate partial deliveries and variations from the orders, in particular in the case of special productions and pallet-packed goods, up to +/- 10% are permitted. The minimum order value is € 25.00. In the case of call-up orders (contracts) we undertake to manufacture the ordered quantity as a whole or in necessary parts and to store these on behalf of the Buyer during the term of contract. The ordered quantity must have been delivered up until the agreed final acceptance date. The final acceptance date is stated in the confirmation of order. Ongoing acceptance in part shipments during the term of contract is deemed agreed upon. If it becomes clear after half the contractual term has lapsed that the contract shall not be honoured up until the final acceptance date, we shall be entitled to write out invoices for advance charges without delivery.

III PASSING OF RISK, SHIPPING, DUTY TO PROVIDE NOTIFICATION OF DEFECTS

In the absence of details to the contrary in the confirmation of order, deliveries "ex works" are agreed upon (EXW – D-55262 Heidesheim). In this respect we are entitled to determine the type of shipping. We shall not take back transport or any other packaging, with the exception of pallets. The Buyer undertakes to ensure that such packaging is disposed of at its own cost. Risk shall pass to the contracting party as soon as our goods leave the forwarding station. This also applies if the contracting party is not required to carry the shipping costs. This provision shall not apply if the contracting party is a consumer. If dispatching the goods is delayed due to circumstances for which we are not responsible, or if we exercise a right of retention, risk shall pass upon notification of the readiness for dispatch.

IV DEFECTS, WARRANTY, STATUTE OF LIMITATIONS

The Buyer is to inspect the goods without delay following receipt in respect of possible defects even if the delivery is not addressed to the Buyer but to a third party stated by the Buyer. Tolerances that are customary in the trade or are insignificant in respect of measurements and weight etc. do not constitute defects. If defects are identified during use, e.g. filling, use is to be discontinued immediately. Notification of defects, shortfalls and wrong deliveries is to be provided and other complaints are to be lodged in advance by telephone or facsimile immediately once knowledge of these is gained. The Supplier is to be given the opportunity to identify on site the defects for which complaints have been lodged. We are to be provided with notification of obvious defects and variations at the latest 72 hours following receipt of the goods. Further-reaching claims, in particular any kind of claims for damages, cannot be lodged against us. These include, above all, damage caused by the loss of pourable products or leaked pourable products. Furthermore, this includes damage caused because the pourable products have been rendered useless. This exemption from liability shall not apply if the damage is caused by an intentional or gross negligent violation of an obligation on our part or by our vicarious agents, or if the damage is based on a threat to life and limb.

Damage caused by improper treatment by the Buyer is excluded from the warranty. In particular, we shall not be liable either for changes in the condition of our products as a result of improper storage or unsuitable operating resources as well as climatic and other effects that are not presupposed in accordance with the contract. Furthermore, the warranty does not apply to defects that are based on the selection of unsuitable material.

Defects shall be excluded if the Buyer selects unsuitable material. In respect of the delivered goods the Supplier provides a warranty such that goods for which proof of defects is furnished shall, at the Supplier's discretion, be subsequently improved or replaced free of charge with new items. In such a case the unsuitable items are to be returned to the Supplier. If the subsequent improvement on our part fails, the Buyer may withdraw from the contract of purchase or demand abatement. However, if merely a minor breach of contract applies, the Buyer shall not be entitled to withdraw. Insofar as the item of purchase is merely subject to an insignificant error that does not have a detrimental effect on the suitability for use as per agreement, the Seller shall not be deemed liable in accordance with the law. The commercial Buyer may only assert the other rights such as abatement or withdrawal from contract if the subsequent improvement fails on several occasions. This applies, in particular, in the case of merely insignificant variations from the quality. Further-reaching or other rights in respect of defects are excluded.

V LIABILITY

Further-reaching claims on the part of the contracting party, in particular claims for damages including the loss of expected profits or due to other pecuniary damage of the contracting party, shall only apply to the extent specified in the provisions on claims for damages and liability of these conditions of delivery. We shall not be liable for damage that does not affect the delivery item, i.e. we are not liable for the violation of contractual or statutory accessory obligations. We shall not be liable for consequential damage, damage due to unlawful acts, nor for other pecuniary damage of the Buyer. Non-contractual claims, in particular in respect of compensation for consequential damage, shall fall under the statute of limitations 12 months following the passing of risk insofar as no claims based on unlawful acts are asserted. This statute of limitations shall not apply if we are alleged to have acted in a gross negligent manner, or in the case of a threat to life and limb or loss of life that is attributable to us.

VI RESERVATION OF TITLE

Up until all claims (including balance claims from current accounts) of the Seller against the Buyer for whichever legal reason now or in the future have been honoured, the Seller shall be provided with the following securities, which on request it is to release at its own discretion insofar as their value permanently exceeds the claims by more than 20%. The goods shall remain the Seller's property. An assignment of claims may not exceed 120% of the existing outstanding items. Processing or refashioning shall at all times be carried out on behalf of the Seller as the manufacturer, but without any obligation for the Seller. If the Seller's (co-) ownership expires due to blending or mixing, it is agreed at this point in time that the Buyer's (co-) ownership in the uniform item pass to the Seller in proportion to the value (invoice value). The Buyer shall gratuitously retain the Seller's (co-) ownership. Goods in which the Seller enjoys (co-) ownership shall hereinafter be referred to as the reserved goods. The Buyer is entitled to sell the reserved goods during the course of proper business transactions as long as it is not in default. Pledging and transferring as a guarantee are not permitted. The Buyer assigns in full to the Seller at this point in time claims arising from the resale or due to another legal reason in respect of the reserved goods (including all balance claims from current accounts) as a guarantee. The Seller hereby authorises the Buyer subject to change to collect the claims assigned to the Seller in its own name but for the Seller's account. This authority to collect may only be withdrawn if the Buyer does not properly honour its payment obligations. In the case of intervention by third parties in respect of the reserved goods, the Buyer shall draw attention to the Seller's property and inform the Seller without delay. In the case of conduct in breach of contract on the part of the Buyer – in particular default in payment – the Seller shall be entitled to take back the reserved goods or, where applicable, demand assignment of the Buyer's right to recovery against third parties. Taking back goods or seizing the reserved goods on the part of the Seller shall not constitute a withdrawal from contract insofar as the German Consumer Credit Act does not apply. In the capacity of Supplier we are entitled to inspect the reserved goods that we own at any time where they are located.

VII PRICES, PAYMENT, DUE DATES

Our prices are to be construed in EUROS, ex works and without value added tax (VAT) and without other public duties imposed on sales transactions or the movement of goods, and without packaging, insurance or freight insofar as nothing to the contrary is expressly agreed. In the absence of written agreements to the contrary, we shall issue our invoices with the delivery. Invoices shall fall due for payment within 14 days. The deduction of trade discounts is subject to a separate written agreement and is otherwise not permitted. If the Buyer culpably defaults in payment, we shall be entitled to charge interest of 8% above the respective base lending rate. If we can furnish proof of greater damage caused by delay, we shall be entitled to assert claims in respect of such damage. We are not under obligation to accept bills of exchange or cheques. The risks and costs associated with forwarding the invoice amount shall be borne by the Buyer. We are also entitled to count payments towards the oldest due receivables. The Buyer may only set off if its counterclaims have become res judicata, are not disputed or have been recognised by us. The Buyer does not enjoy a right of retention in respect of disputed counterclaims. In the case of culpable default in payment on the part of the Buyer, we shall at all times be entitled to cancel granted periods for payment and render the entire residual debt resulting from the business relationship due for payment and demand immediate payment. Furthermore, we are entitled to make outstanding deliveries subject to advance payment only or subject to provision of securities and to withdraw from the contract in respect of goods that may not have yet been manufactured.

VIII PLACE OF PERFORMANCE, PLACE OF JURISDICTION, VALIDITY

The contractual relationship is subject to the law of the Federal Republic of Germany. The provisions of the UN Convention on Contracts for the International Sale of Goods are excluded. Freising is deemed the place of performance and jurisdiction for all claims and disputes resulting from the contractual relationship, including summary bill enforcement proceedings and proceedings restricted to documentary evidence. We are also entitled to bring an action at the court with jurisdiction for the Buyer's registered office. The same place of jurisdiction applies if the contracting party does not have a general place of jurisdiction in Germany, or if it changes its place of residence or habitual place of abode after the contract is entered into or these are not known at the time at which the action is brought.