

# Conditions of sale

## § 1 General / Form / Area of Application

1. All quotes, agreements and deliveries are subject to our Conditions of Sale (CS) as set out below and further supplemented by the provisions of the latest edition of the "General Conditions of Sale (GCS) of Paper and Board Manufacturers in EEC" (CEPAC) in force at the time of our acceptance of any order under the CS and GCS. Our CS have priority and shall prevail over the SCS in the event of any incompatible or conflicting provisions. Our CS and GCS shall apply to the exclusion of any contradictory terms proposed by the buyer and notwithstanding our knowledge that the buyer has proposed provisions deviating from the CS and GCS.
2. All agreements and declarations are not valid unless made in writing.
3. The CS and GCS apply to all future transactions with the buyer.

## § 2 Confirmation of Order

1. Orders are not binding on us unless we have confirmed the order to the buyer in writing or by sending a pro forma invoice or by acceptance of the delivery or by picking up the goods ex works.
2. The confirmation of the order may also be effected by electronic data transmission (e.g. by Edifact or a subsequent similar system); in as far as a corresponding frame agreement has been concluded between us and the buyer.

## § 3 Conditions of Payment / Prices / Right of Set-Off and Retention

1. Payment is to be made within 30 days of the invoice date, unless agreement to the contrary is stated in our order confirmation. Payment by promissory note shall be by separate agreement. Payment by promissory note may not exceed 90 days. All bank charges are to be borne by the buyer in every case.
2. Salesmen and representatives are not entitled to collect payment.
3. If payment is not made at the latest 30 days after receipt of the invoice, we are entitled to charge interest on the amount which is overdue at 8 % above the prevailing base rate (§ 247 German Civil Code) and all other claims for payment will be due immediately, without the need for a separate agreement of a delay. We reserve the right to claim further damages owing to default.
4. If after conclusion of the agreement we believe that there is a significant deterioration in the financial position of the buyer through which our payment claims may be jeopardised or if the buyer falls into arrears, we may retain the outstanding deliveries and demand immediate payment of all invoices – including those not yet due – and advance payments or deposits for paper already manufactured.
5. Orders for which no fixed price has been expressly agreed will be invoiced at our list price applicable as at the date of delivery.
6. Our prices do not include Value Added Tax.
7. The buyer may not exercise any right of set-off unless the buyer's counter-claims have been affirmed in a court judgement (without any recourse to appeal) or the buyer's right has been unequivocally acknowledged by us in writing. The buyer shall not have any right of retention owing to disputed counter-claims.
8. It will be regarded as expressly agreed that all costs of legal prosecution by the Supplier, both legal and non-legal, will be charged to the Customer for supplies and services to customers abroad, in the case of a delay in payment by the Customer.

## § 4 Delivery Period / Late Delivery / Force Majeure

1. The delivery period is expressly indicated on the written order confirmation.
2. The delivery period will be extended in the event of force majeure, operational interruptions, strikes and lockouts and any other interruptions to performance for which we are not responsible.
3. If delay arises as a result of circumstances for which we are responsible damages in the event of ordinary negligence are ruled out. In other cases, the buyer is, however, entitled to demand compensation for default in the amount of 0,5% of the delivery value for each full week of the delay, to a maximum of 5% of the delivery value.

4. In the event of delay in delivery in the case of a delivery date determined or determinable according to the calendar, the buyer must grant us a reasonable further deadline. If this further deadline expires without delivery having been made he is only entitled to rescind the agreement; this also applies in the event of a fixed transaction or if the buyer is no longer interested.
5. The buyer is only entitled to compensation claims owing to poor or non-fulfilment, also in the event of impossibility, if the poor or non-performance is based on intent or gross negligence of our statutory representatives or agents.
6. If the buyer fails to accept due delivery of an order or breaches other obligations to co-operate with us, we shall be entitled to compensation for any damage that we may consequently suffer, including any additional expenses or costs that we may incur as a result of the delay. In the event that the buyer fails to take delivery of an order, the risk of accidental destruction or accidental deterioration of the goods shall transfer to the buyer immediately upon the buyer failing to accept the tendered delivery.

## § 5 Transfer of Risk

1. Delivery is "ex-works" unless otherwise stated or implied in the order confirmation. If the goods are dispatched to the buyer at the buyer's request, the risk of accidental destruction or accidental deterioration is transferred upon delivery to our shipping agent, but in no event later than the time of leaving our factory or warehouse, regardless of whether dispatch is from the place of fulfilment and who bears the freight costs.
2. If we are ready to dispatch the goods and dispatch or acceptance is delayed for reasons for which we are not responsible, risk will be transferred to the buyer upon receipt of notification of readiness for dispatch. The receipt of the invoice shall be deemed to be notification of dispatch.

## § 6 Notification of Defects / Defect Warranty /Liability

1. If the buyer demands subsequent performance during the warranty period owing to defects for which we are responsible we may choose to make good any defects either by repair or replacement with goods free of defects. If the subsequent performance is not successful the buyer may reduce the purchase price or rescind the agreement. The warranty claims of the buyer are subject to the condition that the latter informs us in writing without undue delay of the alleged defects in the context of the inspection and complaint duties incumbent upon him pursuant to § 377 German Commercial Code or Art. 38, 39 CISG.
2. All other claims by the buyer on whatever legal basis are excluded. This exclusion also extends to (consequential) damages, which have not arisen in the goods purchased themselves. In particular, we are not liable for loss of profit or other financial loss suffered by the buyer.
3. The exclusion of liability mentioned above shall not apply if damage or loss is caused intentionally or by gross negligence. Our obligation to pay compensation is limited to the foreseeable damage.
3. The warranty period is 12 months beginning with the transfer of risk in the goods. This period is a limitation period and also applies to claims for consequential damage caused by a defect where such claims are not excluded in the foregoing clauses and to the extent that the claims are not in tort.

The second paragraph of clause 2 above shall also apply in this respect.

4. Any rights of the buyer arising from §§ 478, 479 German Civil Code shall remain unaffected hereby.
5. The exclusion or limitation of liability for damages shall extend to all other claims brought by the buyer, in particular, claims relating to the liability of the producer pursuant to § 823 German Civil Code.
6. The provision under clause 5 above does not apply to claims pursuant to §§ 1, 4 Product Liability Act.
7. The exclusion or the limitation of liability shall also extend to the personal liability of our employees, workers, staff, representatives and agents.
8. Warranty with respect to the sale of used goods is excluded.

## § 7 Reservation of Title

1. We shall retain the property in all goods delivered by us to the buyer, until we have received full payment from the buyer of all claims resulting from our business relationship

with the buyer. Payment shall be deemed to have been made when we have received the monies.

If by special agreement we have authorised the buyer to pay the outstanding amount by cheque and bill of exchange the goods shall remain our property until the bill of exchange accepted by us be honoured by the buyer and the property of goods does not pass upon payment of the cheque.

2. In the event of conduct in breach of contract by the buyer, in particular, if he is in arrears with payment, we are entitled to take back the goods purchased subject to reservation of title without rescinding the agreement. In this case the buyer is obliged to return the goods purchased. If the goods are taken back we are entitled to dispose freely of and realise the reserved goods at our due discretion as well as possible following prior warning and setting of a reasonable deadline. The proceeds from such realisation shall be offset against our claims after deduction of reasonable realisation costs.
3. The buyer shall be obliged to handle the goods with care and to insure them at reinstatement value at the buyer's own cost against all warehouse risks, especially damage or loss due to fire, water and theft. The buyer shall provide proof of existing insurance cover upon our request.
4. In the event of any seizure or any other measure taken by third parties in relation to the goods, the buyer shall notify us in writing without delay so that we can initiate legal proceedings in order to prevent execution of any court order or take any other action that we consider appropriate to protect our interest in the goods.
5. The buyer is authorised to sell the reserved goods in the ordinary course of business; however, he is not entitled to pledge, transfer or assignment of them by way of security.

The buyer hereby assigns to us any claims of the buyer from the sale of the reserved goods in the amount of the total sum on the invoice (including VAT) of our claim to us, irrespective of whether the goods purchased have been sold with or without processing; we hereby accept this assignment. Irrespective of this transfer and our right to collect, the buyer is entitled to collect, in as far as he satisfies his obligations to us and he does not fall into arrears or suffer financial collapse.

6. Any processing or transformation carried out by the buyer in relation to the reserved goods is always undertaken on our behalf, without us incurring any obligations whatsoever arising therefrom.

If the reserved goods are processed using items, which do not belong to us, we shall acquire co-ownership of the processed goods in the proportion of the invoice value of the reserved goods to the other processed goods at the time of the processing. The same terms shall apply to the item, which is created through processing as those, which apply, to reserved goods, which have been supplied.

7. At the request of the buyer we shall release reserved rights of ownership or other security interests in as far as their value exceeds by more than 10% our open claims which have still to be secured.
8. The Supplier will be entitled to cede its claims arising from supplies and services for the purposes of financing.

## § 8 Jurisdiction / Place of Performance

1. The parties shall attempt to come to an amicable agreement regarding any dispute.
2. If amicable agreement is not possible, and in as far as the buyer is a businessman, the place of jurisdiction for all disputes relating to or in the context of the contractual relationship or with regard to the forming and validity of the contractual relationship shall be our principal place of business. However, we reserve the right to bring an action against the buyer before a court determined by the buyer's principal place of business.
3. The places of fulfilment for all obligations arising out of the contractual relationship is our principal place of business, unless a different place of fulfilment is stated in our order confirmation.
4. This contractual relationship shall be subject exclusively to the laws of the Federal Republic of Germany.