

Terms of Delivery and Payment

A. General

1. The following terms shall apply for the duration of the business relations, thus also to future orders.
2. Our offers shall remain without engagement unless they are confirmed in writing as being firm and limited in time.
3. All offers and orders shall require the written form to become legally valid and will be executed exclusively on the basis of the terms following below.
4. Terms of business contrary to the present terms or deviating from the same, in particular terms of purchase, shall not be recognized by us. The same shall also hold true in cases in which deliveries are executed unreservedly by us after the Orderer's objection to the validity of this condition.
5. All sub-agreements to the sales contract, declarations and other statements, in particular verbal arrangements with commercial travellers or representatives, shall require the written form to become valid in law.

B. Place of Performance and Court of Jurisdiction

1. The place of performance for all deliveries and payments is Pr. Oldendorf.
2. The court of jurisdiction for all present and future disputes in connection with the contractual relationship, including those arising from its cancellation shall be Lübbecke or a competent court of our choice.
3. The laws of the Federal Republic of Germany shall apply exclusively to the business relations with our customers. The procedural language in case of disputes shall be German. The applicability of the Convention of the United Nations dated 04.11.1980 on Contracts for the International Sale of Goods (CISG – Vienna Sales Convention) shall be excluded.

C. Delivery, Despatch, Passage of Risks

1. The indicated terms of delivery are without engagement unless otherwise agreed upon in writing.
2. All cases of force majeure, in particular war, closing of frontiers, operational or traffic interruptions, fire damages, scarcity of labour or raw materials, difficulties of supply with energy, strikes or lock-outs, orders by public authorities, all circumstances preventing or reducing the production or the despatch whether they occurred in our plant or in a plant being considered for the supply of energy or the despatch shall discharge us from our obligation to deliver for the dura-

tion and the extent of the impediment. We are not obliged to subsequently deliver the quantities we were unable to deliver during the period in question. Thus claims for damages in this respect are excluded.

3. Obligations to deliver and terms of delivery shall be suspended for as long as the Buyer himself is in default.
4. We reserve the right to exceed or fall below the delivery quantities agreed upon in the sales contract by up to 10%.
5. Special makes once ordered must be accepted by the Orderer. Returns at a later date shall be excluded since we have no use for any such items. Reasonable slight deviations from the original colour shade are conditioned by production processes and do likewise not entitle the Orderer to return the goods.
6. Call orders are to be accepted within 3 months from our notification of readiness for delivery unless otherwise agreed upon.
7. Partial deliveries are admissible. Every partial delivery is regarded as a separate contract.
8. The risk passes in any case to the Orderer at the time the shipment leaves our premises or the despatch after notification of readiness is postponed at the Orderer's request. All shipments travel at the Purchaser's risk, even if we defray the freight charges. Our obligation to deliver is fulfilled upon delivery of the goods to the carrier. The mode of despatch is left in case of doubt to the sender without his being responsible for the cheapest shipping mode. Extra charges for express and special deliveries shall have to be borne by the Purchaser. An insurance will be effected only at the Purchaser's special request and at his expense.
9. Orders to be collected are to be coordinated with us in advance in order to avoid waiting times and to guarantee an equipment of the collecting vehicle in compliance with the Road Transport of Hazardous Materials Act (GGVS). In case of dangerous goods special vehicle equipments according to the GGVS are required as a rule. An appropriate handling as well as a proper stowage also in compliance the GGVS are to be seen to.
10. Inasmuch as our employees assist in loading the goods they are acting at the Purchaser's sole risk and not as our agents.

D. Default of Acceptance

1. If after the expiration of a reasonable period of time granted him the Orderer refuses to accept the purchased item or if he expressly declares beforehand that he will not accept it then we are entitled to withdraw from the contract and/or to demand damages for non-performance.

2. We are entitled to demand 15% of the order value for standard items and 25% for special makes as damages for non-performance unless the Orderer proves to us that we suffered no damage at all or not as high as the lump sum. The assertion by us of a higher damage substantiated as such remains expressly reserved to us.
3. Apart from the cases of default of acceptance we are entitled to cancel the contract in the presence of a materially justified reason. Such a reason is to be assumed if the failure to perform is due to an act of God or any other reason we are not answerable for.
4. The preceding clauses do also apply to call orders.

E. Complaints

1. The Orderer shall have to verify in any case immediately the contractual conformity of the goods delivered or services rendered in view of the completeness, freedom from defects, quality and short deliveries.
2. Apparent defects are to be notified in writing within a term of 2 weeks from receipt of the goods; otherwise the assertion of the warranty claim shall be excluded. To comply with the specified term it will suffice to mail the notification in time. The contractor shall carry the full burden of proof for all conditions to assert claims, in particular the defect proper, the time of discovering the defect and the timeliness of the notification of the defect.

The Orderer of preparations shall have to check – if necessary by processing a sample – whether the goods delivered are suitable for the intended use.

3. If the Orderer gives us specific instructions with regard to construction or material then a liability for material defects does not arise to the extent to which the defect is to be attributed to this specific instruction.

We assume no liability for commercially acceptable or technically unavoidable deviations from quality or design. Deviations with regard to colour, gloss and spread within the limits accepted in the trade do not entitle to a notification of defects. Our both spoken and written application technology guidance does not release the Orderer from his own examination of our goods for the intended purpose. Once the processing of the goods has begun complaints about apparent defects shall be excluded. The warranty for preparations shall in any case be excluded if thinners, hardeners, added varnishes or other components not having been bought from us are admixed. This does not apply in the event in which a complaint can verifiably be attributed to a defect which we are answerable for.

When purchasing by sample merely a professional conformity to such sample is warranted with no assurances being given with regard to the suitability for whatever use.

4. In case of a justified complaint filed within the time limit we are free to either remedy the defect or deliver goods free from defects (supplementary performance). If the supplementary performance fails the customer may as a matter of principle demand at his option a reduction of payment or the cancellation of the contract. Yet in the event of a merely minor breach of contract, in particular in case of minor defects, the customer shall have no right of cancellation.
5. If after a failed supplementary performance the customer opts for damages then the goods shall stay with the customer if that can reasonably be expected of him. The damages shall be restricted to the difference between the purchase price and the value of the defective item.
6. The customer's rights in connection with defects not relating to a building shall be barred at the end of one year from the delivery of the goods. This does not apply if the contractor failed to notify us of the defect in time.
7. In case of slightly negligent violations of duty our liability shall be restricted to the contract-specific direct average damage foreseeable according to the type of goods. Vis-à-vis contractors we shall assume no liability for slightly negligent violations of immaterial contractual obligations. The customer's claims for damages in connection with defects shall be barred at the end of 1 year from the delivery of the goods.

F. Price/Payments

1. Unless otherwise agreed upon in writing our prices are quoted ex works, exclusive of VAT, insurances etc. The price is based on the currently usual and valid calculation factors. If for reasons which we are not answerable for a change of the costs of labour, material and energy of whatever kind were to occur then we reserve the right to adjust the prices quoted accordingly within the legally possible limits.

If a delivery free domicile is agreed then we shall charge for deliveries with an order value of up to € 1,000 a pro rata freightage lump sum.

The minimum order value shall be € 200.00.

2. Unless otherwise provided for in writing all payments shall have to be made net without any deductions free our bank within 30 days or at 2% discount within 8 days from the date of invoice. A discount on new invoices is inadmissible for as long as older invoices having fallen due are still unsettled.

3. Bills of exchange shall be accepted on account of performance only. They do not entitle to a discount. Bank discount and collecting charges are to be borne by the Orderer. Payments by bills of exchange and cheques shall be considered as effected only after the respective amount has been passed to the credit of our account.
4. During the default period the Orderer has to pay interest on the money debt at the rate of 8% above the base interest rate of the European Central Bank. We reserve the right to furnish proof of and assert a higher default damage.
5. The Orderer shall be entitled to set-offs and the assertion of rights of retention only inasmuch as the counter-claim has been established as being valid in law and recognized by us without being contested.

G. Reservation of Title

1. All goods delivered by us shall remain our property until all liabilities of the Purchaser from the present business relations have been discharged in full, thus in particular also until the settlement of a current account balance. Bills of exchange and cheques shall be considered as payment only after their having been honoured.
2. When mixing our products with others and/or processing them this reservation shall apply accordingly with the proviso that those parts of the products thus created become our property which correspond to the value-based share of our product in the value of the product resulting from mixing with and/or processing our product. § 950 of the German Civil Code shall be excluded.
3. The Contractor shall be entitled to resell the goods in the ordinary course of business. He shall assign to us already here and now all claims to the extent of the amount invoiced which arise for him from the resale to a third party. We accept the assignment. In case of a resale of a product only partly owned by us (paragraph 2) this stipulation shall apply on a pro rata basis.
4. The Purchaser shall be entitled to dispose of our reserved property and the claims assigned to us in the ordinary course of business as long as he meets his obligations vis-à-vis us in time. Extraordinary disposals, in particular the transfer of title for the purpose of securing a debt, assignment or pledging shall not be permitted.
5. The Purchaser has to notify us immediately if third parties intend to substantiate or assert any rights to the reserved goods or our claims.
6. If the value of the securities given to us exceeds our claims on the whole by more than 20% then we shall be obliged to release the

same to that extent at the Purchaser's request.

H. Packaging

1. Non-returnable containers shall be taken back by us at the Purchaser's request provided that the same have been completely emptied. The containers must be returned in a non-drip scraper-cleaned state. We reserve ourselves the right to refer the Orderer to a third party commissioned to have the packages recycled in compliance with the Packaging Regulation.
2. Premium containers shall have to be returned to the lending firm free of charge within 4 weeks from the date of invoice in a clean and usable condition. The Purchaser's risk taking shall in this case as well end upon the arrival of the containers at our premises. In the event of default the lending firm shall be entitled to a lump-sum default compensation to the amount of € 10.00 per full calendar day and per premium packaging item from the beginning of default until the return of the premium container.
In case the 3 months' time limit is exceeded the premium containers will be charged at the replacement cost to the Purchaser's account. Payable at once, without discount. If at the time of the invoice for premium containers the same are on their way to the supplier then the premium container invoice shall be considered as null and void. In the event of their being sent back at a later date the container invoice shall be paid back after deduction of a charge for wear according to the condition of the returned container.
Premium containers must not be used for other purposes or for being filled with other products. They are used merely for the transportation of the goods supplied. Labels must not be removed. The same are rather to be updated prior to their return according to the GGVS or GGVE Regulations, respectively.
3. Pallets are no packing but a means of transportation and to be swapped immediately upon delivery.
4. Extra charges for air and sea cargo containers shall be borne by the Purchaser.

I. Supplementary Agreements

1. Supplementary agreements shall be valid only if they are mutually confirmed in writing.
The preceding terms shall not be abolished either by trade usage or by tacit toleration. The possible legal invalidity of an aforementioned provision does not affect the validity of the remaining provisions. A faulty stipulation is to be replaced by one which the contracting parties would have been agreed if they had preconceived the case of the

faultiness and solved the same in approving consideration of the interests of both parties. We are entitled to store, to process and to transmit data in connection with the movement of goods and payments with the customer inasmuch as this is necessary for the customary support service and/or the orderly execution of the orders. The rules and regulations of the Federal Data Protection Act governing data transmissions shall remain unaffected. The addresses of the respective data recipients will be communicated on request.

Dreisol Coatings GmbH & Co. KG

As of 05/2003