

General Terms and Conditions of Sale of CABB GmbH

1. Offer and Conclusion of Contract

- a) The present terms and conditions ("Terms") shall exclusively apply to all our present and future deliveries and the contracts relating thereto ("Sales Contracts"). Terms and conditions of our clients ("Buyers") shall not be applicable, even if we fail to expressly reject them. The Terms as laid down hereunder shall also be applicable if we execute Buyer's orders without any proviso, knowing that contradictory or diverging terms and conditions exist.
- b) Our quotations are submitted without obligation and are non-binding, unless expressly submitted in writing as binding.
- c) We are free to accept an order from a Buyer which qualifies as an offer to conclude a purchase contract within two weeks of receipt. Our execution of an order without confirmation is to be considered as our acceptance.
- d) Only terms of Sales Contracts made in writing shall be enforceable against us. "Writing" or "written" within the meaning of these Terms shall also include e-mails.

2. Scope of Contractual Obligations

- a) The scope of obligations shall be governed by the respective Sales Contracts, our written confirmation of order or our invoice, as the case maybe, supplemented by these Terms.
- b) Delivery dates shall not be binding unless they have been expressly stated to be binding. The quality of the goods due shall be determined exclusively in accordance with the standard specification or the specification agreed.
- c) We shall be entitled to effect partial shipments if the Buyer can reasonably be expected to accept such partial shipments under the circumstances of the particular case. Invoices for any partial shipment shall be payable irrespective of the completion of delivery.
- d) Product details and criteria for use in catalogues, instruction leaflets, safety data sheets and other information material that we make available to the Buyer, as well as descriptive product details are not to be understood as guarantees for a particular quality of the goods nor as a binding representation or agreement of the quality. Such quality guarantees and quality agreements must be expressly agreed as such in writing.

3. Prices and Payment

- a) The prices are net prices plus value added tax ("Price"). They are calculated on the weight/quantity of the delivery at the time of dispatch.
- b) Bills of exchange may be accepted only after prior written agreement, on account of performance (*erfüllungshalber*) and on condition of being eligible for refinancing with central banks. All charges incurred for the payment of bills and transfers shall be met by the Buyer.
- c) If the Buyer is in default of payment, interest at the legal rate shall be charged on the overdue amount. We reserve the right to pursue further claims for damages due to delayed performance.
- d) If the Buyer is in default of payment and in the case of other justified doubts as to the Buyer's solvency or creditworthiness, we shall be entitled – notwithstanding our other rights – to demand advance payment for all deliveries not yet made or services not yet rendered and to require immediate payment of all claims arising from the business relation. Our obligation to supply shall be suspended while the Buyer is in arrears with a due payment.
- e) The Buyer has the right to offset only as and when respective counter-claims have become final (*rechtskräftig festgestellt*), are not contested or have been accepted by us. The Buyer is only allowed to invoke rights of retention if the counter-claim is based on the same contractual relationship.
- f) We reserve the right to adjust our Price if decreases or increases of cost occur after conclusion of a Sales Contract, in particular due to collective agreements or changes in prices of raw materials. Such changes will be documented to the Buyer upon request.

4. Force Majeure

Events of force majeure shall release the affected party from the obligation to deliver or accept delivery for the duration of the disruption plus a subsequent, reasonable start-up time to the extent of the effect of the disruption. For the purposes hereof, an event of force majeure shall mean any event beyond the reasonable control of the affected party, including without limitation monetary, trade, health and other types of governmental regulations or actions; significant operational disruptions (e.g. in connection with natural disasters, epidemics, other public health crises, vandalism, terrorism, civil disorder, international conflicts, fire, flood, machinery breakdown, delivery delays or delivery failures by suppliers including internal suppliers of the affected party's own group, shortages of labor, energy or raw materials, strikes, lock-outs, disruptions in the packaging and handling process, difficulties in procuring means of transport); and major traffic disruptions. Events of force majeure must be notified to the other party without unreasonable delay. If delivery or acceptance is delayed by more than three months as a result of such events, each of the parties shall be entitled to withdraw from the Sales Contract with regard to the quantity affected by the disruption in delivery or acceptance, to the exclusion of all further claims.

5. Transfer of Risk

In the absence of any agreement to the contrary, the risk shall transfer to the Buyer when the shipment is transferred to the first transport operator or when the goods are made available for collection by the Buyer. This principle shall apply even if the Buyer refuses to take delivery of the shipment.

6. Reservation of Property Rights

- a) We shall retain title to the goods until we received full payment of all claims existing or still arising from the business relations with the Buyer. Any machining or processing of the goods subject to reservation of title shall be carried out on our instructions. The processing shall be undertaken without charge or any obligation so that we shall be regarded as the manufacturer pursuant to § 950 of the German Civil Code (BGB).
If the Buyer processes the said goods together with other goods not owned by us, we shall acquire co-ownership of the new product, our proportionate share being equivalent to the invoice value of the goods subject to reservation of title relative to that of the other processed goods at the time of processing. If goods subject to reservation of title are processed, combined or mixed with other goods not owned by us in accordance with §§ 947 and 948 of the German Civil Code (BGB), we shall become co-owners in accordance with the provisions of the law. If the Buyer acquires sole ownership through processing, combining or mixing, he shall here and now transfer to us co-ownership proportionate to the value of the goods subject to reservation of title relative to that of the other goods at the time that they are processed, combined or mixed.
In these instances the Buyer shall hold in safe custody and free of charge the item that is likewise owned or co-owned by us and deemed to be subject to reservation of title within the meaning of this section 6.
- b) To safeguard our total receivables resulting from the business relations, the Buyer hereby assigns to us such proceeds and receivables from resale as are equivalent to the value of the goods subject to reservation of title. We hereby accept such assignment.
- c) The Buyer may not resell goods subject to reservation of title unless the proceeds are assigned to us. The Buyer may not dispose of goods subject to reservation of title in any other way. At our request, the Buyer shall notify the third-party purchaser that the proceeds are assigned to us as payment.
- d) If the value of our total collateral exceeds the amount owed by the Buyer by 20% (in words: twenty per cent), we shall, at the request of the Buyer or any third party adversely affected by the excessive holding of Buyer's collaterals, release collateral of our choice to the extent of the excess.

- e) The Buyer hereby assumes all risk for the goods supplied by us subject to reservation of title. He shall keep such goods in safe custody and insure them adequately against loss (theft, fire etc.). The Buyer hereby assigns to us the right to claim against the insurance in the event of loss, namely for a priority share equivalent to the purchase price of the goods owned and supplied by us.
- f) If reservation of property rights to any consignment sent abroad is not permitted on the relevant foreign territory in the above-mentioned form, our rights set forth in the foregoing shall be limited to the scope permitted by law in the Buyer's country.
- g) In the event of a third party laying claim to the goods subject to reservation of title, in particular in cases of seizure, the Buyer shall promptly alert such third party to our ownership of the goods and inform us immediately, thus enabling us to pursue our rights of ownership. To the extent that a third party does not indemnify us with regard to judicial and extra-judicial expenses incurred in this context, the Buyer will be held liable.

7. Claims for Reasons of Defects

- a) The Buyer must check whether the goods supplied comply with the Sales Contract. The duty to examine and complain in accordance with § 377 of the German Commercial Code (HGB) also applies to a Buyer, who is not a fully qualified merchant in the meaning of the law.
- b) We must be notified of any obvious defects within two weeks of delivery, and of concealed defects immediately upon their discovery. Damage to packaging must be noted in the freight papers or notification made in writing to the delivering forwarder and to us at the latest six days after delivery.
- c) We will remedy properly notified defects of the goods supplied at our discretion, taking the Buyer's interests into consideration, by either eliminating such defects or supplying defect-free replacement goods. If these measures do not lead to success the Buyer is entitled to have recourse to the statutory regulations.
- d) Defective goods may only be returned with our express written consent. In the case of justified claims we shall refund reasonable cost for the return shipment.
- e) The period of limitation is to be twelve (12) months, calculated from the transfer of risk, unless the defect is fraudulently concealed by us.

8. Limitation of Liability

- a) Our liability for damages, regardless of the legal basis, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations in contractual negotiations and unlawful acts (*unerlaubte Handlungen*) is, to the extent that this involves culpability (*Verschulden*), limited in accordance with this section 8.
 - b) We shall not be liable in the case of simple negligence of our management bodies, legal representatives, employees or other vicarious agents (*Erfüllungsgehilfen*), to the extent that such negligence does not relate to a breach of material contractual obligations (*vertragswesentliche Pflichten*). Material contractual obligations include the obligation to deliver in a timely manner, the conformity of the supplied goods with the agreed quality, and any advisory, protective and due care obligations that we may have to facilitate the Buyer's contractual use of the supplied goods or for the purpose of the protection of life or health of the Buyer's personnel or the protection of its property from material damage.
 - c) Where we are liable in accordance with and on the grounds set forth in Section 8.b) such liability shall be limited to damages which we have foreseen upon conclusion of the Sales Contract as a possible consequence of a breach of Sales Contract or which we should have foreseen when exercising due care and attention (*verkehrsübliche Sorgfalt*). Indirect damages and consequential damages resulting from defects in the supplied goods, shall only be compensated to the extent they are typically to be expected in the course of a proper use of the supplied goods.
 - d) In the event of a delivery delay on our part due to our simple negligence, the amount of default damages which the Buyer may claim shall be limited to a maximum of 5 % (in words: five per cent) of the agreed Price for each complete week of delivery delay and in total to a maximum total of 20 % (in words: twenty per cent) of the agreed Price.
 - e) To the extent that we provide technical information or act in a consulting capacity and such information or consulting is not included in the contractually agreed scope of supply owed by us, such work shall be free of charge and under exclusion of any liability.
 - f) The aforementioned exclusions and limitations on liability shall apply to the same extent for the benefit of our management bodies, legal representatives, employees or other vicarious agents (*Erfüllungsgehilfen*).
 - g) The limitations set out in this section 8 shall not apply to our liability for wilful misconduct, for guaranteed features, for damage to life, body or health or in accordance with the German Product Liability Act (ProdHaftG).
 - h) If the Buyer sells the supplied goods unchanged or after processing, transforming, combining or mixing with other goods, the Buyer shall release us internally from all product liability claims by third parties, to the extent that the Buyer is responsible for the circumstances giving rise to the liability.
- ## 9. Limitation Period
- The period of limitation for all claims, excepting those subject to the period of limitation based on defect, shall be eighteen (18) months.

10. Trademarks

Trademarks may be used in connection with products manufactured by the Buyer only with the trademark owner's express written consent.

11. Safety

To the extent that our goods are subject to regulations on dangerous substances, the Buyer shall, when storing and processing such goods, observe our product-specific safety data sheet and/or, when reselling the goods, pass on the relevant data to the purchaser. We will supply current safety data sheets upon request. To the extent that goods supplied by us are categorised as dangerous goods, they may be stored and (further) transported only in the packaging and by the means of transport approved for the purpose and with the prescribed labelling.

12. Miscellaneous

- a) The Buyer may not assign in whole or in part claims arising out of a Sales Contract concluded with us without our express written consent.
- b) If any clause in these Terms and / or a Sales Contract should be or become wholly or partially void, ineffective or unenforceable, the validity, effectiveness and enforceability of the other provisions of these conditions shall not be affected thereby. Any such invalid, ineffective or unenforceable provision shall be deemed replaced by such valid, effective and enforceable provision as comes closest to the economic intent and purpose of the invalid, ineffective or unenforceable provision as regards subject-matter, extent, time, place and scope. The aforesaid shall apply mutatis mutandis to any gap in these Terms and / or the respective Sales Contracts.
- c) Unless any written agreement has been made to the contrary, the Sales Contract is subject to the laws of the Federal Republic of Germany, without giving effect to its rules on conflicts of laws. The application of the United Nations Convention on Contracts for the International Sale of Goods of 11-04-1980 is excluded.
- d) The place of performance for our delivery obligations shall be the place from which the delivery is made. The place of jurisdiction shall be Frankfurt am Main or, if we so choose, the court in whose jurisdiction the Buyer's headquarters is located. This shall also apply to legal proceedings relating to documents, bills of exchange and checks.
- e) The contractual language shall be German. Where interpretation is required, the German text shall solely be authoritative. Any translations into foreign languages shall be for information purposes only.