

Terms and Conditions for Delivery and Sales

1. Relevant conditions

These terms and conditions for delivery and sales apply to the entire business relationship with customers, even if they are not mentioned in future contracts. They also apply if the customer, (especially when placing or confirming an order) refers to his own terms and conditions, unless they are expressly accepted.

2. Delivery period

- (1) The delivery period starts when the acknowledgment of an order is mailed, but not before the customer has provided potentially necessary documents, permits or clearances, and not before the receipt of an agreed upon down payment.
- (2) The delivery period is complied with if either the readiness to send has been communicated or the delivery item has left the plant before expiration.
- (3) The delivery period is extended in the event of a strike, in particular during strikes and lockouts, as well as unforeseeable impediments beyond our control, e.g. stoppages, delays in the delivery of essential materials, provided it can be proven that such impediments are of essential influence for the delivery of the item. The delivery period is automatically extended by the duration of such actions or impediments. We have no responsibility for the aforementioned conditions, if they occur during an already existing delay. In important cases, we inform the customer of the beginning and the end of such impediments as soon as possible.
- (4) Partial deliveries made by us are permissible within the delivery period unless they result in a disadvantage for the use.

3. Extent of delivery

- (1) The extent of delivery is determined by our written acknowledgment of an order.
- (2) Changes in construction and form, due to an improvement of technology or as a result of legal requirements are reserved during the delivery period, unless the delivery item is changed substantially and those changes are unreasonable for the customer.

4. Cancellation costs

In the event of an unwarranted cancellation of an order, we are authorized, regardless of a claim for higher actual damages, to charge 50% of the sales price for the costs of processing the order and for lost profit. The customer has the right to prove a smaller damage.

5. Packing and shipment

Packing materials become the property of the customer and we charge for those costs. Mailing and packing fees are charged by us separately. The method of shipment is at our discretion.

6. Acceptance and transfer of risks

- (1) The customer is obligated to accept the delivery item. Delivery will be effected by CONATEX Dipl.-Ing. L. Colbus GmbH. Unless differently agreed upon (delivery effected by us), the point of transfer is St. Wendel. The customer has the right to inspect the delivery item within 14 days after the receipt of the notification of readiness to make delivery or any other notification of the completion at the point of transfer. The customer is obligated to accept the delivery item within the same deadline, unless he is temporarily, and not by his own fault, unable to do so.
- (2) If the customer delays acceptance of the purchase item for more than 14 days as of the receipt of the notification of readiness to make delivery due to intent or gross negligence, we have the right after having fixed/given a deadline of additional 14 days, to cancel the order or to claim damages for non-performance. It is not necessary to fix an additional deadline if the customer has seriously and finally denied the acceptance or if he is apparently unable to pay the purchase price during that time period.
- (3) The risk is transferred to the customer with the acceptance of the delivery item. If the customer declares not to accept the delivery item, the risk of an accidental loss or of an accidental deterioration of the delivery item is transferred to the customer at the time of the denial.

7. Price changes

Price changes are permissible if there is a time period of more than 4 months between the conclusion of the contract and the agreed upon delivery date. If the wages, material costs or the relevant purchase prices increase thereafter until the completion of the delivery, we are authorized to reasonably increase the price in accordance with the cost increase. The customer only has the right to cancel the contract if the price increase exceeds - not only unsubstantially - the increase of the general cost of living between the order and the delivery.

If the customer is a businessman, a legal entity or a special fund under the public law, price changes are permissible according to the aforementioned conditions, if there is a gap of more than 6 weeks between the conclusion of the contract and the agreed upon delivery date.

8. Warranty

- (1) Defects in the delivered items of which the seller is informed within six months after the commencement of operation, or at the latest ,9 months after the transfer of risks, will be either remedied by the seller or he will provide a replacement item at his own discretion, to which he is entitled even after an unsuccessful remedy. In the event of obvious defects, the written notification of defects must be received by the seller within 14 days after the transfer of the ordered items to the customer: in the event of not obvious defects, the notification must be received after they have been detected, without undue delay. The customer has the right at his own choice, to claim cancellation of the contract or reduction of the price, if attempts to remedy the defects or the replacement delivery have failed. Spare and wear parts or parts for further treatment must be checked/controlled by the customer directly after their delivery and all potential defects must be reported without undue delay. For defects, which could have been detected prior to their integration or treatment, all warranty rights are lost after their treatment or integration.
- (2) If the customer causes a checking of delivered items and if he claims a defect for which the seller would be responsible according to number (1), the customer has to pay the related costs, if there is no defect found
- (3) Further/additional claims of the customer, in particular consequential damages - unless they result from promised properties/warranted quality - are excluded. This does not apply, if the seller acted with intent or gross negligence.
- (4) Costs for sending and re-sending the delivery item, as well as the packaging are borne by the seller, unless otherwise agreed upon by both parties.

9. Liability

- (1) The customer's claims for damages - regardless of their legal basis, including those resulting from illicit acts or those concerning the replacement of consequential damages - are excluded. This does not apply, if the seller can be charged with intent or gross negligence, or if he is liable because of lack of promised properties.
- (2) If the customer claims damages for personal injury or property damage based upon the laws on product liability, as a result of defective delivered items, the exemption from liability does not apply.
- (3) For damages resulting from the following reasons, the seller is not liable: unsuitable or inappropriate usage, faulty mounting or operation by the customer or a third party, failure to comply with the manual of instruction, faulty or negligent treatment, normal wear and tear, chemical or electro-chemical or electrical influences, unless based upon intent or gross negligence of the seller, unauthorized changes or repair work.
- (4) Instructions provided to the customer, in particular concerning usage of the delivery item, are only binding for the seller, when made or confirmed in writing.

10. Reservation of ownership

- (1) We reserve ownership of the delivered items until full payment has been received.
- (2) In the event of a violation of the contract by the customer, in particular in the event of a default in payment, we have the right to repossession after having set a deadline and the customer is obligated to restore possession.
- (3) Our claiming of the reservation of ownership, and the levy of execution of the delivered items does not constitute a cancellation of the contract, unless the conditions of the Consumer Credit Act applies, or if this has been explicitly stated by us in writing.

When applicable in dealing with businessmen, or a legal entity or a special fund under public law, the following applies in addition:

- (4) The customer is authorized to re-sell the delivery items in his ordinary course of business; however, he assigns to us - at that time - all claims equal to the amount of the purchase price agreed upon between us and the customer (including value added tax), which become due to the customer as a result of the re-selling, regardless of the fact, that the delivered items are re-sold with or without a modification. The customer is authorized to collect those claims after their assignment. This does not affect our authority to collect those claims ourselves; however, we obligate ourselves, not to collect the claims, as long as the customer properly fulfills his payment obligations and is not in a payment delay. If that should be the case, we have the right to claim that the customer informs us of the assigned claims and their debtors, provides us with all necessary data, turns over all pertinent documents and informs the debtor (third party) of the assignment.
- (5) The treatment or transformation of the items by the contractor is always made on our behalf. If the delivered items are processed with other items which do not belong to us, we gain the co-ownership of such a new item, according to the value of the delivered items compared to the processed items. The customer stores the co-ownership for us.
- (6) If delivery items inseparably are mixed with other items which do not belong to us, we gain the co-ownership of the new item in relation to the value of the delivery item to the processed item at the time the processing takes place.
- (7) The customer is not allowed to pledge the delivery items, nor may he transfer them by way of security. In the event of garnishments, seizures or other dispositions of third persons, the customer is obligated to give us immediate notice, and to provide us with all information and documents necessary for the protection of our rights. Enforcement officials or a third party must be informed of our rights.
- (8) We obligate ourselves to release the securities to which we are entitled upon request of the customer, if their value exceeds the claims to be secured - as long as they have not yet been paid - by more than 20 %.

11. Payment Conditions

- (1) The purchase price and the fees for incidental services are due for payment at the time the delivery item is transferred.
- (2) Only after their discharge, checks and drafts are considered as payments. The acceptance of a draft always requires a prior written agreement with us. When accepting a draft, the usual discount and cashing fees are charged to the customer. They are payable immediately and in cash.
- (3) We charge late interest in the amount of 3 percent per year above the respective discount/basic interest rate of the Deutsche Bundesbank. They will be increased or reduced if we prove a higher interest rate or if the customer proves a lower interest rate.
- (4) If the customer is a business man or a legal entity or a special fund under public law, the retention of payments or their offsetting as a result of potential counter-claims which are not accepted by us, is not permissible.

12. Place of Performance and Legal Venue

- (1) Place of performance is St. Wendel.
- (2) In the event of all potential disputes arising from this contractual relationship, if the customer is a business man, a legal entity or a special fund under public law, a lawsuit must be filed at that court which has jurisdiction for our head office. We are also authorized to file a lawsuit at the customer's head office.
- (3) Exclusively German law applies by excluding the law concerning the international purchase of movable objects, even if the customer has his principal office abroad.

13. Miscellaneous

- (1) The transfer of rights and obligations by the customer arising from this contract concluded with us require our written consent in order to be legally valid.
- (2) Should one stipulation be or become null and void, the remaining stipulations remain untouched therefrom.