

Terms and Conditions of Payment and of Delivery

1. General

a) We only supply our products under the Terms and Conditions of Payment and of Delivery that follow (hereinafter called "Terms"). The Terms apply to all contracts and to all goods and/or services rendered.

b) Our currently valid Terms apply to each and every order in current business relations.

c) Our Terms are the sole contractual provisions applicable. Deviant, contradictory or supplementary client General Terms and Conditions of Business only form any part of a contract with us if same has been expressly agreed to in writing by us. Individual agreements in law made with any client have precedence in the individual cases/s to which they apply over the provisions herein.

d) Any and all ancillary provisions, caveats, supplements or waiving of these Terms must be specifically separately agreed in writing to be effective.

This provision applies to this requirement for written form too. Legally significant declarations and notifications the client may submit to us after making contract must be in writing to be effective.

e) References to the validity of legal rules are purely explanatory. Legal rules apply even without any such reference insofar as not amended or expressly excluded herein.

2. Conclusion of contract

Contracts of sale with our clients are concluded

a) when our field sales force receives a written order from a client and same is then signed by all parties to it.

b) in the case of telephoned or written orders such contract is first made when our relevant order confirmation or invoice is sent to the client.

c) in the case of facsimile or e-mail orders such contract is first made when our relevant written order confirmation or invoice is sent to the client.

3. Delivery period, delay in delivery

a) Delivery periods and deadlines are subject to individual agreement and will be stated by us when we accept the relevant order.

b) Failure to adhere to specific delivery periods and/or deadlines does not relieve a client wishing to withdraw from the contract or demand damages for any such reason from the obligation to set a reasonable period of grace during which the contract must be performed and to declare that they will reject the goods and/or services in question once the aforementioned period of grace has expired.

c) Delivery periods can change without affecting our rights in law by the duration of the time the client is late in rendering their obligations to us.

d) If the delivery time cannot be adhered to due to unforeseeable reasons for which we cannot be held liable such as industrial action, lockout, instruction/s issued by the competent authority/authorities or interruptions to business then we will advise the client of same promptly together with the new delivery time/s.

In such cases we are entitled to render part shipment/s. If the goods and/or services to be delivered/rendered are not so delivered/rendered by the new delivery date/s then both parties are entitled to withdraw from the relevant contract/s. The same applies *mutatis mutandis* if we are dependent on correct and/or punctual delivery but this does not occur and we cannot render alternative contract performance or not render same at an economically reasonable cost.

Our legal rights of withdrawal from and of serving notice of termination of, the contract and the legal rules on winding up the contract if the obligation to perform the contract is excluded remain unaffected.

4. Delivery, passing of risk, delayed acceptance

a) Shipment is always ex works or warehouse (sale by delivery to a place other than the place of performance [at the request of the purchaser]). At the client's request and cost our products can be

shipped anywhere. Unless otherwise agreed we are entitled to choose the shipping mode. The risk of accidental loss and/or deterioration of the product/s and the risk of delay passes when the goods are handed over to the forwarding agent, common carrier or other legal or natural person entrusted with shipment to the client. Handover is assumed to have taken place even if the client's acceptance is delayed.

b) If client acceptance is delayed and/or the client neglect to perform any obligation of cooperation with us and/or should any shipment of ours be delayed for any other reason for which the client can be held liable then we shall be entitled to demand damages. This does not affect our legal right to assert claim/s for damages and/or provide proof of higher damages that we can then assert. The client is entitled in law to submit proof that we suffered either lesser damage than the aforementioned lump sum or no damage at all.

c) Minor deviations in the contractual goods and/or services we render from the relevant brochure/s, samples or models are permissible and without effect on the contract of sale involved insofar as same have no negative effect on quality or function for the client.

5. Prices, offsetting

Prices are ex works or warehouse and subject to shipping charges and VAT as well as any other taxes and/or imposts that may be due and payable in addition.

Prices do not include shipping or packaging, customs dues or any other ancillary charges and/or fees that may be due and payable. Unless otherwise agreed the prices valid on the date of shipment and/or of the rendering of the contractual services involved apply. Legal requirements and/or agreements made between trade and industry on lump sum waste disposal charges/fees for packaging are included in our prices and hence not separately invoiced either beforehand or *ex post facto*.

6. Terms and conditions of payment, due dates, arrears, delays, offsetting

a) Our invoices are due and payable net immediately on presentation unless otherwise agreed. The client is considered to be in arrears of payment if they do not pay within fourteen days of the due date. Payment is only considered made when we freely dispose of the amount/s in question.

b) We are entitled to charge interest on arrears of eight percent over and above the basic interest rate (§ 247 BGB [German Civil Code]). We nevertheless remain entitled in law to assert claim/s for further damages. The client may render proof of our having suffered no damage or far less damage than that/those claimed. All other open invoices become due and payable immediately if the client falls into arrears of payment.

c) The client has no right of retention due to any alleged defect/s unless the goods and/or services in question are obviously defective. In such case the client only has a right of retention if the amount/s withheld is/are reasonably proportionate to the defect/s and the foreseeable costs of delayed performance (especially of defect remedy). The client always has a right of retention in cases of counterclaims that are undisputed or *res judicata*.

d) Cheques will only be accepted by specific arrangement in lieu of payment and will not attract any rebate/s usually granted for prompt payment.

Credit by cheque is always subject to receipt less expenses and the value date on which we freely dispose of the amount/s in question.

e) If the clients creditworthiness objectively worsens after making contract to an extent endangering payment for any contractual goods and/or services we render or have rendered then we shall be entitled to demand advance payment for all pending contract performance or to withdraw from the contract/s.

f) Offsetting against our right/s to assert claim/s for payment of our price/s for contractual goods and/or services rendered is excluded unless same is undisputed or *res judicata*.

g) If the client has granted us bank direct debit authorization that is not performed by the bank then we expressly reserve the right to hand the matter over to a collection agency. The amount/s owed then become immediately due and payable.

7. Reservation of title

a) Contractual goods and/or services rendered by us remain entirely our property until all claims we are entitled to assert under the same business relationship have been settled in full (goods and/or

services subject to retention of title). If the legality of this reservation of title is subject in the client's country of domicile to specific conditions precedent where form or registration is concerned then the client is responsible for adherence to same. Should this be impossible then the client must proffer equivalent security. The client has a duty to insure the goods and/or services subject to retention of title against risks such as fire, water and theft at their own expense.

b) The client may not hypothecate or assign as security goods and/or services subject to retention of title or otherwise encumber same with third-party rights.

The client must advise us promptly in writing of any garnishment, seizure or other disposal or interference by any third party affecting, or threatening to affect, our goods and/or services subject to retention of title.

c) The client is entitled to sell our goods and/or services subject to retention of title in the course of normal business. If they sell our goods and/or services subject to retention of title then the client herewith assigns their right/s to assert claim/s arising from any such sale against the purchaser together with all associated ancillary rights to us on a precautionary basis regardless of whether our goods and/or services so subject to retention of title were modified by the client or not. Said assignment includes any and all current account balance claim/s up to the amount invoiced by us for our contractual goods and/or services rendered.

d) We reserve the right to collect debts ourselves if the client ceases meeting their payment obligations properly, are in arrears of payment, have submitted an application for the opening of insolvency proceedings against their assets or their ability to pay have any other defect/s. In any such case the client must provide us with full details of their purchaser/s and the claim/s assigned at our request with all the data needed to assert said claim/s including all associated documentation and reveal details of said security assignment/s to that/those purchaser/s.

e) In the event of the client breaching contract, particularly by failing to pay the purchase price/s due and payable, we are entitled to withdraw from the contract and demand return of the goods and/or services in question on the basis of our reservation of title as the law provides.

If we assert our right/s as above then the client's right/s to possession of our goods and/or services subject to retention of title ceases and we become entitled to enter the client's business premises or those premises on which said goods and/or services subject to retention of title are kept/located and repossess same in their entirety. Within 4 weeks of said repossession of our goods and/or services subject to retention of title we will invoice the client appropriately and settle the difference between our open rightful claim/s to payment and the value of the goods and/or services repossessed as above less our damages and costs.

f) Should the client utilise the bank direct debit authority then we are entitled to the amount so debited up to the sales price of the goods and/or services subject to retention of title agreed between us and the client. The client herewith assigns to us their right/s to assert claim/s against their bank for payment of account credit balances as security.
We herewith accept said assignment.

g) We undertake to release the security due us insofar as same exceeds the value of the contractual goods and/or services for which security is rendered by over 10%.

8. Guarantee / warranty

a) Unless otherwise stipulated below the German legal rules apply should our contractual goods and/or services prove to have any defect/s.

b) The client has a legal duty to promptly inspect any and all goods and/or services supplied/rendered to them and complain of obvious defects promptly. In the case of defects only apparent on thorough examination same must be advised within 10 days of receipt of the goods and/or services in question. Such complaint/advice must always be in writing to be effective. Defects not apparent on receipt inspection and not detectable on thorough examination must be complained/advised of by the client within 10 days of their discovery.

Punctual dispatch of the written complaint suffices to prove adherence to deadlines. Our liability in law is excluded if the client does not properly inspect the goods and/or services received and/or promptly complain/advise of any defect/s ascertained.

c) Client guarantee assertion rights are excluded if a defect was caused, or contributed to, by improper handling and/or storage.

d) In the event of punctual justified complaint we have a choice of remedy, of delayed performance by replacement with defect-free goods and/or services or of crediting. If delayed performance and/or second remedy fail then the client is entitled to withdraw from the contract, demand damages or reduce the price due and payable at their discretion.

e) The client must grant us the time and opportunity to remedy any defect/s detected and in particular to return the goods complained of to us for testing. In the event of replacement shipment the client must return the defective product/s as German law requires.

f) We are entitled to make delayed performance due dependent on the client paying the purchase price in full. In such case the client is entitled to withhold a reasonable part or parts of the purchase price/s proportionate to the defect/s.

g) The right to assert claim/s for damages not due to any defect/s in any of our products as delivered is excluded unless otherwise dictated in German law.

h) The foregoing provisions in clause 8 herein do not apply if German law dictates otherwise (e.g. § 478 paragraph 4 BGB).

9. Limitation of liability

The right to assert claim/s and/or rights due to defects in any contractual goods and/or services rendered expires one year after delivery regardless of the legal reason/s for same. The foregoing chronological liability limitation also applies to the client's right to assert damages both under the terms and conditions hereof and otherwise due to any defect/s in our product/s unless applying the usual such limitation in German law would result in a briefer such limitation in any individual case.

10. Restriction of liability

Our liability and that of our vicarious agents is limited in the event of minor negligence to the foreseeable average damages for the type of product/s concerned typical of such contracts. Our liability in the event of insignificant breaches of minor contractual obligations is excluded. These liability limitations do not apply if the law dictates otherwise, if the claim/s being asserted is/are so asserted under the German Product Liability Law and in cases of injury to human life, limb or health. We accept liability under German law in cases of deliberate act or omission and gross negligence.

11. Place of performance, of jurisdiction and applicable legal convention

a) Place of performance hereunder for shipments ex works is the location of that works and for shipments ex warehouse that warehouse location.

b) Place of jurisdiction hereunder is the Bayreuth county or local court or that court that has jurisdiction at the client's registered office location.

c) This contract is made in German law. The UN Convention on the International Sale of Goods does not apply.

d) Office hours and contact information

How to contact us via our head office
Monday – Thursday from 8:30 a.m. – 5:30 p.m.
Fridays from 8:30 a.m. – 3:00 p.m.

Postal address
Columbus Trading-Partners GmbH & Co. KG / Riedinger Str. 18,
95448 Bayreuth
Telefon +49 (0) 921 / 78 511 – 0
Telefax +49 (0) 921 / 78 511 – 888

HypoVereinsbank Bayreuth, IBAN: DE38773200720025427246,
BIC: HYVEDEMM412
HSBC Trinkaus: IBAN: DE17300308800013991006
BIC: TUBDDE33XXX
Commercial Registry of the local court in Bayreuth ref. HRA 4224