



Preamble

All deliveries are subject to the following Terms and Conditions of Sale and Delivery. Other terms and conditions – to include specifically purchasing terms specified by the purchaser – shall apply only in exceptional cases and only if prior written approval is given by us. All legal relations between us and the ordering party are subject to the laws of the Federal Republic of Germany.

Article 1 Offers and acceptance of offers

a) Our offers are non-binding. Orders are binding upon us only if confirmed in writing or if we have already taken action to fulfil them. Amendments, additions and oral, informal agreements affecting orders also require written confirmation.

b) Supplementary descriptive terms relating to product designations, such as “approximately”; “as previously delivered”, “as in previous orders” or similar notations in our offers relate to the quality and quantity of goods only and have no bearing on prices. Such information contained in orders is interpreted accordingly by us, and any confirmation is also to be understood accordingly.

c) Quantities quoted are always approximate. Deviations of up to 10% above or below quoted quantities shall be viewed as complying with contract specifications. Such quantity deviations are fully and accurately reflected in the final invoice amount.

Article 2 Purchase price and payment

a) Prices quoted by us do not include applicable V.A.T., which must be added. Prices are calculated on the basis of quantities or weights as determined by us or our delivery facilities. Calculation may also be based upon quantities or weights ascertained by the receiving party, however, provided quantities/weights are determined using properly calibrated scales and the goods in question have been shipped at our risk.

b) Unless otherwise specified in the sales contract, the purchase price is payable in full in cash prior to delivery.

c) We reserve the right to charge interest on overdue accounts from the date payment is due at a rate 2 % above the applicable German Bundesbank discount rate in effect at a given time.

d) Additional claims for damages may also be filed in the event of delays in payment.

e) Cheques and bills of exchange are accepted for deposit only and represent fulfilment of payment obligations only when honoured. Bank fees will be charged to the purchaser.



f) The purchaser is entitled to offset only undisputed or judicially recognised claims against our claims for payment of the purchase price. Commercial customers may withhold the purchase price due to substantive deficiencies pending our decision regarding justification of the complaint in question. Withholding beyond this time requires presentation of appropriate security by the purchaser. Non-commercial customers are not entitled to withhold the purchase price in connection with complaints relating to orders other than the order on which the claim for payment of the purchase price is based.

g) In the event that the purchaser is in arrears with respect to payment of an invoice representing an amount of significance to the business relationship, all claims for payment accruing from business transacted to the date in question shall fall due immediately – without regard for pending bills of exchange accepted for payment against such claims. We shall then exercise the right to demand cash payment in advance of any further deliveries.

If the delay in payment is not rectified within a reasonable period of time, we shall be entitled to cancel the contract or demand damages for non-performance. This applies in particular to subsequent transactions for which orders have been placed and confirmed but not yet executed.

Should we become privy to information indicating that the purchaser is no longer credit-worthy, we shall be entitled to demand cash payment in advance of delivery of goods, despite the existence of other agreements, and to demand payment of all outstanding obligations.

Article 3 Delivery

a) Delivery terms are to be regarded as approximate unless a contract expressly specifies a fixed delivery deadline.

b) Acts of God and influences beyond our control – to include restrictions imposed by law, strikes and lockouts – entitle us to cancel a contract affected by such circumstances. Liability for damages resulting from non-fulfilment is excluded in such cases. This also applies in cases of delayed delivery by our suppliers through no fault of our own. We shall be obliged to inform the purchaser of such circumstances without delay. The purchaser shall then have the right to cancel the contract in question.

c) Should we fail to deliver within the specified period, the purchaser shall be entitled to specify a reasonable grace period for delivery and shall be entitled to cancel the contract in the event that delivery is not effected within this period. The purchaser shall be entitled to claim damages for non-performance upon expiration of the grace period only if the delay is attributable to deliberate intent or gross negligence on the part of our legal representative or a person / organization engaged to provide services on our behalf.

d) In the case of deliveries which do not affect our operations (drop shipments), compliance with delivery terms/deadlines is to be regarded as given if the goods leave the delivery facility in sufficient time to allow for prompt delivery to the receiver, taking into account customary transport times.

Article 4 Shipping and acceptance

- a) The risks of transport from the point at which the delivery is dispatched are to be borne by the purchaser. This also applies to freight-paid and free-receiving-facility deliveries, except when we effect transport with our own vehicles from our own plant or warehouse facility.
- b) In the case of pick-up of goods from the delivery facility, the purchaser or his designated representatives assume responsibility for vehicle loading, proper securing of loads and compliance with applicable laws and/ regulations governing the transport of hazardous goods.
- c) Unloading and storage of goods is always the responsibility of the purchaser. If our employees provide assistance in unloading and cause damages to goods or other damages in the process, they shall be regarded as having acted at the sole risk of the purchaser and not as persons engaged to provide services on our behalf.
- d) In the case of deliveries effected with tank vehicles, the purchaser shall be responsible for ensuring proper condition of his tanks or other storage containers and effecting connection of the filling lines to his receiving system at his own risk.
- e) The above provisions also apply to deliveries affected by third-party forwarders, to the extent that vendor liability could be derived from their actions. Third-party liability remains unaffected.

Article 5 Packing

Where our deliveries are effected in rented containers, said containers are to be returned to us empty and in good condition no later than 4 weeks from the date of delivery to the purchaser's facility at the purchaser's own risk and expense, or if possible, reloaded onto our delivery vehicle against receipt.

Article 6 Reservation of ownership

- a) The purchaser assumes title to the goods only upon full payment of the purchase price and all other obligations, including future obligations, accruing from his business relations with us. This also applies in cases in which payments are effected against specifically designated claims. In current account transactions, the reserved ownership serves as security against outstanding account balances. Rights of ownership are transferred to the purchaser no later than the date on which we no longer have justifiable claims against the purchaser.
- b) As long as the purchaser fulfils his payment obligations to us in an acceptable manner, he shall be entitled to utilize and/or resell reserved-ownership goods in his normal course of business.
- c) In the event that the purchaser fails to meet payment obligation to us after elapse of a specified grace period, we shall be entitled to demand return of reserved-ownership goods with extension of the grace period and without notification of cancellation of the contract. Our demand for return of goods implies cancellation of the contract only if we make a corresponding written declaration.



d) Processing or other utilization of reserved-ownership goods is effected on our behalf without obligation to us. We are to be regarded as the manufacturer as defined in Art. 950, German Civil Code (BGB), and acquire title to intermediate and final products equivalent to the proportion of the invoice value of our reserved-ownership goods to the invoice values of goods produced by others. Thus the purchaser holds reserved-ownership goods for us in trust and at no expense to us. The same applies to combinations or mixtures of reserved-ownership goods with goods produced by other as defined in Arts. 947, 948 German Civil Code (BGB).

e) The purchaser hereby assigns to us all claims against third parties accruing through resale of the reserved-ownership goods as security against all outstanding obligations to us. If the purchaser sells goods to which we have only partial ownership rights as set out under letter b) above, he similarly cedes claims against third parties to us in proportion to the relative value. If the purchaser utilizes reserved ownership goods under the provisions of a general goods and services contract or similar contract, he shall assign claims for goods/services under said contract to us in an amount equivalent to the invoice value of the utilized goods delivered by us.

f) The purchaser shall be entitled to collect payments for claims accruing from the resale or utilization of reserved-ownership goods in his normal course of business. Should we have specific reason to believe that the purchaser cannot or will not properly meet his obligations to us, the purchaser shall be required at our request to inform his purchasers of the assignment of claims to desist from collecting or otherwise disposing of said claims, to inform us immediately of the status of goods to which we still hold rights of ownership and to submit all documents required for recovery of assigned claims to us. Any attachment of reserved-ownership goods or assigned claims is to be reported to us immediately.

g) If the value of the security to which we have rightful claim exceeds the total amount of our claims against the purchaser by more than 10%, we shall be obligated to release security at the purchaser's request in a form to be selected by us.

Article 7 Warranty rights, obligations of purchaser with respect to inspection and complaints

a) For substantive deficiencies including the absence of warranted quality, we shall be liable to commercial customers and legal entities under public law in accordance with the applicable provisions of law for cancellation, reduction of price or replacement at our discretion, provided the following conditions are met in addition to compliance with applicable law:

1) Immediately upon delivery, the purchaser shall inspect goods and packaging in accordance with customary commercial practice. If the goods are delivered in multiple shipping units, the purchaser must also check the labels on each shipping unit for conformity with his order. If the goods are delivered in tank vehicles or tanks which are not to remain in the purchaser's possession, the purchaser must check the accompanying shipping documents required by law for conformity with his order. He shall also be required to sample the goods in order to verify conformity with order specifications before they are removed from the transport tanks/vehicles.



2) Following inspection in accordance with item a), the purchaser shall immediately notify the vendor of any deficiencies detected.

3) Should the purchaser fail to perform a required inspection or to report detected or detectable deficiencies immediately, he thereby loses his warranty rights with respect to the detected or detectable deficiencies in question. The same applies to an inadvertently wrong delivery, including a deviation so significant that approval/acceptance of the goods by the purchaser can be effectively ruled out.

4) In the case of concealed deficiencies, the purchaser must file complaint immediately and in no case later than ten days following detection of the deficiency. If not, the goods shall be regarded as accepted. Complaints regarding concealed deficiencies are ruled out categorically after eight weeks from the date of receipt of the goods. The right to demand replacement for misbelief remains unaffected by this provision.

b) For substantive deficiencies including the absence of warranted quality, we shall be liable to non-commercial customers in accordance with the applicable provisions of law for cancellation, reduction of price or replacement at our discretion, provided the following conditions are met in addition to compliance with applicable law:

1) The non-commercial purchaser has the same obligations to inspect and verify as the commercial customer (see item a), no. 1 above). In contrast to the commercial customer, however, the inspection and verification requirements are not based upon customary commercial practice but upon the knowledge which could reasonably be expected of the customer, given his occupational status.

2) Following inspection in accordance with a), detected deficiencies are to be reported in writing immediately; otherwise, deficiencies are to be reported in writing within 6 months.

3) Should the purchaser fail to perform inspection in accordance with reasonable expectations or to report detected or detectable deficiencies within the specified periods, he thereby loses his warranty rights with respect to the detected or detectable deficiencies in question.

Article 8 Liability in case of consequential damages and other losses

a) For losses affecting legally recognised assets of the purchaser, to include his material assets, as a result of deficiencies in the purchased object, inadvertently wrong delivery or packaging, we assume liability subject to the following provisions:

1) With respect to damages which could have been avoided by compliance on the part of the purchaser with inspection obligations, any and all liability toward commercial customers and legal entities is excluded, unless said damages are attributable to malicious intent or gross negligence on the part of our legal representatives. Under the same circumstances, any and all liability toward non-commercial customers is similarly excluded, unless the damages in question are attributable to malicious intent or gross negligence on our part.



2) To the extent damages are incurred despite the purchaser's compliance with inspection obligations, we shall be liable toward both, commercial and non-commercial purchasers only for damages resulting from deliberate or grossly negligent breach of contract.

b) For damages other than those described above, we shall be held liable – regardless of the basis for liability – only in cases where said damages are the result of malicious intent or gross negligence on our part or on the part of persons/organizations engaged to provide services on our behalf.

c) We shall not be liable for unsuitability of specific goods for the purposes intended by the purchaser. With respect to consultation, information or recommendations provided by us with respect to matters of application and use, we shall be liable for the negligent provision of incorrect advice, information or recommendations only if provided in writing.

d) All claims filed under this Art. 8 become null and void six months after the date of the actions resulting in the damages in question. This does not apply to claims caused by criminal behaviour.

Article 9 Final provisions

a) The legal venue for cases involving commercial customers is the place of jurisdiction of the main offices of the vendor. In disputes involving non-commercial customers, the legal venue is the place of jurisdiction of the place of residence or business of the defendant.

b) In the event that any of the preceding clauses are rendered or found to be invalid, said invalid provisions are to be replaced by provisions which approximate as closely as possible the business intent of the contract in question, taking into account the respective interests of the parties to the contract. In cases of uncertainty regarding interpretation, the original German version of these provisions shall take precedence.

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TH. C. TROMM GmbH