

## **General Terms and Conditions of Sale and Delivery**

of CHT Germany GmbH, Bismarckstr. 102, 72072 Tübingen - Germany

(Current as of June 2018)

### **I. Scope; Offer, Contract Conclusion**

1. The following General Terms and Conditions of Delivery are valid for all deliveries, services or offers by us. The present General Terms and Conditions of Delivery are an integral part of all contracts concluded by us with our contractual partners (hereinafter called "Purchaser") on the deliveries and services offered by us. They are valid also for all future deliveries, services or offers vis-à-vis the Purchaser, even if they are not again separately agreed.
2. Our General Terms and Conditions of Delivery apply exclusively. Deviating, contrary or supplementary General Terms and Conditions of the Purchaser or third parties shall not apply, even if we do not expressly object to their application in the individual case. Even if we refer to a letter containing General Terms and Conditions of the Purchaser or a third party or which refers to such General Terms and Conditions, this does not constitute an agreement to the validity of such General Terms and Conditions. The same applies, if we, being aware of the General Terms and Conditions of the Purchaser, carry out delivery to the Purchaser without reservation

Individual agreements made with the Purchaser on an individual case basis (including side agreements, additions and amendments) in any case shall take priority over the present General Terms and Conditions. For the content of such agreements a written contract and/or our written confirmation shall be authoritative.

3. Our offers are subject to change and without obligation unless they are expressly designated as binding or contain a specific term of acceptance. Purchase orders or contracts can be accepted by us within fourteen days after receipt. The documents forming part of the offer such as brochures, samples and declarations of weight are only approximately authoritative unless expressly designated as binding. With due consideration to the interests of the Purchaser, we shall be entitled to carry out modifications in the technical construction and in the chemical composition of the products.

### **II. Prices**

The prices apply plus value-added tax. For calculation, the weights, unit numbers and quantities determined by us and/or the pre-supplier are authoritative, if the Purchaser does not object immediately.

### **III. Delivery**

1. Considerable interruptions of operations unforeseeable for the supplier, and for which the supplier is not responsible, exceeded terms of delivery or delivery failures of sub-suppliers of the supplier, lack of raw material, energy or manpower, strikes, lock-outs, difficulties in the procurement of means of transportation, traffic hold-ups, orders of higher authority, and other cases of force majeure at our company or our sub-suppliers extend the delivery time by the duration of the impediment to performance insofar as it is important for the delivery capacity

of the goods. Start and end of such impediments will immediately be notified to the Purchaser.

2. Partial deliveries reasonably acceptable to the Purchaser are admissible. The deliveries are generally made in standard packaging.

#### **IV. Shipment, Passing of Risk, Packaging**

1. Unless otherwise agreed, we shall select shipping route and shipping mode, with the interests of the Purchaser having to be reasonably considered.
2. The risk of destruction, loss or damage of the goods passes to the individual designated for shipment on delivery of the goods, or in the event of collection, passes to the Purchaser with provision of the goods for collection notified to the Purchaser. This shall also be valid for delivery freight prepaid.
3. Rejected goods may only be returned with express approval of the supplier.
4. Returnable packaging must be returned immediately by the Purchaser at the expense of the Purchaser. As long as it has not yet been returned to us, loss and damage of a returnable packaging shall be at the expense of the Purchaser, if the Purchaser is responsible for it. Returnable packaging must not be used for other purposes or for holding other products. It is only intended for transport of the goods delivered. Labelling must not be removed.

#### **V. Payment**

1. Invoices are payable within 30 days after date of invoice without any deduction. Bills of exchange are only accepted after special agreement and only on account of payment by charging all collection and discount expenses.
2. The Purchaser shall be entitled to rights of set-off and retention only insofar as its claim has been established as final and absolute or is undisputed. In the event of defects of the delivery, the counter-claims of the Purchaser, in particular pursuant to Section VI. 3. sentence 2 of the present General Terms and Conditions, remain unaffected.
3. Non-compliance with the agreed upon payment terms or other circumstances, which, when applying standard banking practice, suggest a significant deterioration in the Purchaser's financial situation, entail immediate maturity of all our claims which are based upon the same legal relationship.
4. We are entitled to demand payment in advance.

#### **VI. Complains, Claims based on Defects, Liability, Statute of Limitation**

1. The delivered goods are to be carefully inspected immediately after delivery to the Purchaser or to the third party designated by him. The Purchaser must check - if necessary by a test processing - whether the delivered goods are suitable for the intended use.

2. Complaints regarding quality or quantity must be reported to us in writing immediately after receiving the goods, stating the invoice number and dispatch number, the product designation and container designation, hidden defects must be reported immediately in written form after their discovery.
3. If complaints have been notified in time and are justified, we shall be entitled to subsequent performance within an adequate period of time. We shall be entitled to make subsequent performance owed conditional on the fact that the Purchaser pays the purchase price due. But the Purchaser is entitled to retain a reasonable part of the purchase price in proportion to the defect. If subsequent performance fails twice, if it becomes impossible, is unjustifiably refused or unreasonable for the Purchaser, the Purchaser at its discretion is entitled to reduce the purchase price or to withdraw from contract.
4. Damage claims and claims for reimbursement of expenses of the Purchaser (damage claims), for whatever legal reason, especially for violation of duties from the contractual obligation, and from tortious act are excluded. Events of violation of essential contractual duties (duties the fulfilment of which renders possible proper performance of the contract in the first place, and on the observance of which the contractual partner regularly relies and may rely), mandatory liability pursuant to the Product Liability Act, violation of life, body and health as well as the events of intentional or grossly negligent damage remain unaffected.

In the event of violation of essential contractual duties, the damage claim is restricted to the foreseeable damage typical of the contract unless one of the above mentioned mandatory reasons for liability exists.

Liability for consequential damages caused by a defect and resulting from violations of duty is excluded unless the violated duty was not precisely supposed to protect against such consequential damages. Modification of the burden of proof to the detriment of the Purchaser is not associated with the above provisions.

5. The above exclusions of liability are valid also for personal liability of the employees, staff, representatives and other vicarious agents.
6. Claims of the Purchaser from a guarantee within the meaning of Section 443 BGB [German Civil Code] remain unaffected by the above provisions.
7. Contrary to Section 438 subsection 1 no. 3 BGB, the general statute of limitations for claims from material defects and defects of title is one year as from delivery. If acceptance is agreed upon, the statute of limitations starts with acceptance.

The above limitation period of sales law of one year is valid also for contractual and non-contractual damage claims of the Purchaser which are based on a defect of the goods unless application of the regular statutory limitation period (Sections 195, 199 BGB) would result in a shorter limitation period in the individual case.

Special statutory provisions for third party return claims based on a property right (Section 438 subsection 1 no. 1 BGB) and in the case of fraud of the supplier (Section 438 subsection 3 BGB) as well as the limitation periods of the Product Liability Act remain unaffected. Excluded from the restriction of the present Clause VI. 7. are moreover the claims of the Purchaser vis-à-vis suppliers for intentional or grossly negligent behaviour, for warranted quality features as well as for violation of life, body or health.

#### **VII. Application-Specific Advice**

1. Application-specific advice is given by us to the best of our knowledge. All data and information on suitability and application of the products do not release the Purchaser from own inspections and tests for suitability of the products for the processes and purposes intended.
2. Moreover, the Purchaser must mandatorily comply with the specifications in the safety data sheet for handling of the substances delivered and their field of application.
2. If the Purchaser intends to use the goods for other purposes than discussed or agreed upon with us, this may only be done after extensive testing and examination as well as after having obtained possibly necessary official permits and/or certificates.

#### **VIII. Retention of Title**

1. We retain ownership to the goods delivered until the Purchaser has fully paid all our present and future claims from the purchase contract and a current business relationship (secured claims).
2. Prior to full payment of the secured claims, the goods under retention of title must neither be pledged to third parties nor transferred by way of security. The Purchaser must promptly inform us in writing, if and insofar as any third party interference of the goods owned by us occurs.
3. In the case of behaviour of the Purchaser contrary to contract, in particular in the case of non-payment of the purchase price due, we shall be entitled to withdraw from contract pursuant to statutory provisions, and to demand return of the goods due to the retention of title and withdrawal. If the Purchaser does not pay the purchase price due, we shall only be allowed to assert these rights, if we have previously fixed unsuccessfully an adequate time limit for payment to the Purchaser, or such a time limit is superfluous pursuant to statutory provisions.
4. The Purchaser is obliged to keep the goods under retention of title in safe custody, and to insure them at its own expense against loss and damage. The Purchaser hereby assigns by way of security its claims from the insurance contracts in advance to us.
5. The Purchaser is authorised to resell and/or process further the goods under retention of title in the normal cause of business. In that case, the following provisions apply in addition:

- (a) The retention of title extends to the products arising by processing, mixing or combining of our goods at their full value, and we shall be considered as the manufacturer. If, in the case of processing, mixing or combining with third party goods, their retention of title remains to exist, we shall acquire joint ownership in proportion to the invoice values of the processed, mixed or combined goods. Moreover, the same applies to the resulting product as to the goods under retention of title.
- (b) The claims against third parties arising from resale of the goods or the products are assigned by way of security to us already now by the Purchaser in total and/or in the amount of our possible co-ownership share pursuant to the above paragraph. We accept the assignment. The obligations of the Purchaser mentioned in clause 2 are valid also in consideration of the claims assigned.
- (c) Besides ourselves, the Purchaser remains authorised to collect the claim. We undertake not to collect the claim as long as the Purchaser complies with its payment obligations towards us, does not default on payment, no request for opening of insolvency proceedings is filed, and no other deficiency in its performance capacity exists. But if this is the case, we can request that the Purchaser informs us on the claims assigned and their debtors, provides all details necessary for their collection, hands over the associated documentation, and informs the debtors (third parties) of the assignment.
- (d) If the realisable value of the securities exceeds our claims by more than 10%, we will release securities at our discretion upon request by the Purchaser.

#### **IX. Place of Performance; Choice of Law and Place of Jurisdiction**

1. Place of performance for the delivery is the respective supplier's shipping location, for payment its registered office.
2. If the Purchaser is a merchant, a legal entity under public law or a special fund under public law or if the Purchaser has no place of general jurisdiction within the Federal Republic of Germany, the place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship between us and the Purchaser at our choice is Tübingen (Federal Republic of Germany) or the registered office of the Purchaser. For legal actions taken against us, however, Tübingen (Federal Republic of Germany) has exclusive jurisdiction in that cases. Mandatory legal provisions on exclusive places of jurisdiction remain unaffected by this provision.
3. The contractual relationship and all legal relations arising from it are governed exclusively by the laws of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). Prerequisites and effects of the retention of title pursuant to Clause VIII. shall be governed by the laws of the respective place where the goods are stored, if it stipulates that the choice of German law is inadmissible or invalid.

**X. Severability**

1. By invalidity of one or several provisions, validity of the other provisions and the contract remains unaffected.
  
2. Insofar as the contract or the present general Terms and Conditions contain loopholes, for filling the loopholes the legally valid provisions shall be deemed to have been stipulated, which the parties would have stipulated according to the economic objectives of the contract and the purpose of the present general Terms of Delivery, if they had known the loophole.