

Terms and Conditions of Sale and Delivery of chemfidence services gmbh

1. SCOPE OF APPLICATION

All current and future deliveries and services rendered to our contract partners (hereinafter referred to as "Customers") shall be done exclusively on the basis of these General Terms and Conditions. Any deviations from the terms and conditions hereunder - in particular terms and conditions of the Customer - shall not apply, even if we do not specifically object to their validity in the individual case. Even if we make reference to any communication containing or referring to terms and conditions of the Customer or of any third party, this does not constitute any consent to such terms and conditions. We draw your attention to the fact that special terms and conditions may apply for specific deliveries and services, supplementing or modifying the present Terms and Conditions of Sale and Delivery.

2. OFFER, CONCLUSION OF CONTRACT

All our offers are without obligation; they can be accepted only within 30 days. We may accept orders within 30 days. All contracts involving our deliveries and services that do not comply with the written form requirement must be confirmed by us with handwritten signature or by fax in order to become valid. Unilateral legal declarations concerning the contractual relationship, in particular termination, require written form with handwritten signature to be valid; the written declaration may also be transmitted by fax. Any particulars given on the subject-matter of deliveries or services (e.g. weights, measurements, utility values, load bearing capacity, tolerance values and technical specifications) and any depictions thereof are descriptions or features. Any stricter liability can only be derived therefrom if we have expressly guaranteed their binding effect in writing. Any customary deviations and deviations due to statutory provisions or technical improvements shall be permitted, provided always that the suitability for the contractual purpose is not impaired. We reserve all rights to any offers or estimates made by us and to all and any tools, aids, patterns, samples, illustrations, descriptions, models, calculations, data sets (even if based on various orders) and other records provided to the Customer by us or by third parties. Without our permission, the Customer may not make such objects or the content thereof accessible to third parties, nor may he disclose, copy or use same, or have same used by third parties. Upon our request the Customer shall return all such objects and any copies thereof if they are no longer required by the Customer in the ordinary course of business, or if negotiations fail to lead to the conclusion of a contract. Contracts on the basis of our offers and cost estimates are to be treated confidentially. In the case of transactions within the scope of e-business, Section 312 e Para 1 Sentences 1 No. 1 through 3 and Sentence 2 German Civil Code [Bürgerliches Gesetzbuch - BGB] shall not apply, unless the Customer is a consumer within the meaning of the German Civil Code.

3. INVOICING, SET-OFF, DEFAULT IN PAYMENT

Our prices shall apply solely to the deliveries and services actually agreed. Any additional or special services shall be charged separately. Our invoices show net amounts and are immediately payable net cash unless otherwise agreed. The amounts charged are based on the weights at the time of consignment. If, as per agreement, any delivery or service is made more than 4 months after conclusion of contract, and if in the meantime our own suppliers' prices, or any expenses incurred by us (e.g. freight charges, wages) or levies which we have to pay have been increased, or if new levies have been introduced, or if we have increased our prices generally, then we shall be entitled to adjust the price accordingly, unless such price has expressly been confirmed as being fixed. The Customer may only set off against our claims or assert any right of retention in this respect if his counter-claim is uncontested or confirmed by declaratory judgement. In the event of default in payment or of legitimate doubts as to the Customer's liquidity or credit-worthiness, we shall be authorised - notwithstanding any other rights to which we are entitled - to demand advance payment for deliveries not yet made, and to declare all claims from such business relationship due for immediate payment. Our delivery obligations shall be suspended as long as the Customer is in default with any payment due. In the event of default in payment, interest may be charged at the rate as stipulated by law from time to time.

4. DISPATCH

The transport risk shall be borne by the Customer. This shall also apply if partial deliveries are made, or if we have assumed other obligations (e.g. dispatch or delivery) without having agreed to deliver at the Customer's place of business. Unloading and storage shall be at the Customer's responsibility. If dispatch or delivery are delayed due to circumstances attributable to the Customer, then the risk shall pass to the Customer as from the date on which the goods are ready for dispatch. All storage costs incurred after transfer of risk shall be borne by the Customer. If goods are collected from the delivery location, the Customer or his agent shall be responsible for loading the vehicles. All rules and regulations applicable to hazardous freight must be observed. With regard to non-packed goods, the Customer must make sure at its own responsibility that the storage tank or any other container used is in perfect condition, and that the filling apparatus is connected to the receptacle. If our employees help with loading or tank-filling, they shall act exclusively at the Customer's risk, and not as parties assisting us in performing our obligations. All arrangements referring to dispatch shall apply analogously to deliveries made by external carriers to the extent that any liability on our part may be derived from their conduct. The liability on the part of such third party shall remain unaffected. Increases in freight charges after conclusion of contract and any extra costs arising from transportation obstacles or from delays beyond our control shall be borne by the Customer. If we take back all or any goods, the Customer shall pay the costs thus incurred, irrespective of the reason for the taking back. Only upon the Customer's express request will we insure the consignments at his expense against theft, damage through breakage, transport, fire, and water or any other insurable risks.

5. FORCE MAJEURE

Cases of force majeure and any other disruptive events unforeseeable at the date of conclusion of contract (e.g. operational breakdowns, omission or non-observance of delivery dates on the part of our own suppliers, shortage of energy supplies or raw materials, traffic disruptions, strikes, lockouts and official orders) which are beyond our control, shall release us from our obligation to perform for the duration of such disruption and to the extent of the effects thereof. If this leads to the delivery or service being delayed for more than one month, then we shall be entitled to rescind the contract in respect of the quantities affected by such disruption.

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6. CLAIMS BASED ON DEFECTS

The Customer shall without undue delay verify whether the object delivered or the service rendered complies with the contractually agreed quality and is suitable for the intended purpose of use. Besides, the regulations of Section 377 German Commercial Code [Handelsgesetzbuch - HGB] shall apply. If the notification of defects of the objects delivered or the services rendered occurred in time, we shall at our choice remedy such defects or provide substitute delivery or improve services (supplemental performance - Nacherfüllung), excluding any further rights of the Customer. If the supplemental performance fails, the Customer may reduce the remuneration subject to further legal regulations (reduction) or, unless the liability for defects refers to construction works, at his choice may rescind the contract. The regulations of Sections 282 and 283 German Civil Code shall remain unaffected. Goods complained of may only be sent back with our express consent. In the event of justified complaints we shall refund the cost of the cheapest means of transport.

7. LIABILITY

We assume unrestricted liability for wilful conduct and gross negligence and for any kind of negligence in the case of harm to life, body or health. Moreover, we assume liability for any elements covered by strict liability (in particular, the law on product liability). For other culpable breaches of material contractual obligations (cardinal obligations), for any reason whatsoever, we shall be liable only in respect of the amount for typical contractual, i.e. foreseeable damage. We shall insofar not be liable in the event of slight negligence in the breach of other contractual obligations which are not cardinal obligations. For insured risks, our liability for each claim shall insofar be restricted to the amount insured under our liability insurance policy (for planning and property damage to Euro 2.5 million and for any other insured risks to Euro 5 million). At the Customer's request we are willing to increase the liability coverage against additional payment. If we delegate orders to a third party in the Customer's name, for his account and with his approval, we shall only be liable for carefully selecting and supervising such third party. Our liability shall not exceed the foregoing. The above provisions on liability shall also apply in favour of our employees and any other parties assisting us in performing our obligations.

8. STATUTE OF LIMITATION

Claims asserted against us for any violation of contractual obligations attributable to us are subject to the statute of limitation after expiry of a period of one year. This shall not apply for wilfully committed violation of obligation and for claims of the Customer resulting from defects according to Section 438 Para. 1 No. 2 and Section 634 a Para. 1 No. 2 German Civil Code. With regard to the beginning of the statute of limitation the legal regulations shall apply. The rights of a consumer according to Section 475 German Civil Code shall remain unaffected.

9. RETENTION OF TITLE

We retain title to all items supplied by us until the Customer has satisfied all our claims arising under the contractual relationship. Our retention of title shall also cover any new products made by processing the retained goods. Processing shall be done for us as manufacturer. In the case of processing, connecting or mingling of retained goods with items not belonging to us, we shall acquire coownership in the new products at the ratio of the invoiced value of the retained goods in proportion to the invoiced value of the other materials. As long as the Customer is willing and able to duly fulfil his obligations towards us, he may in the ordinary course of business dispose of the goods owned or co-owned by us. The following details shall apply: a) If the Customer grants his own customer a respite before paying the purchase price, then he shall retain title to the processed goods vis-à-vis such customer. Without such retention of title, the Customer shall have no authority to dispose of the retained goods. b) By way of security for all our claims ensuing from our business dealings with him, the Customer here and now assigns to us all claims arising from the sale of retained goods, including bills of exchange and cheques. If any goods are sold to which we are entitled to co-ownership, such assignment shall be restricted to a share in the claim corresponding to our co-ownership share. In the event of goods being processed under a contract for work and services, claims for remuneration for performance are here and now assigned to us up to an amount corresponding to our co-ownership share. The Customer shall only be authorised to re-sell or otherwise use the retained goods if it is guaranteed that the claims resulting therefrom pass to us. c) In the event of an assigned claim being included in a current invoice, then the Customer here and now assigns to us from the current account a portion of the balance corresponding in amount to such assigned claim (including a corresponding portion of the final balance). If interim balances are made, and if it is agreed that same be carried forward, then the amount from the interim balance to which we are entitled in line with the above arrangement shall be treated in the following balance as having been assigned to us. d) Customer is authorised to collect all and any claims assigned to us, until such time as we revoke this arrangement. As long as we retain title - in as far as he may dispose over them at all - the Customer shall treat and store retained goods with care, and carry out the usual inspections, repairs or maintenance required at his own expense. For the duration of retention of title the Customer may neither pledge the retained goods nor assign them by way of security. We must be notified immediately in writing or by fax of any third party attachment of the retained goods, either by way of attachment or seizure, and of any damage or destruction in this respect. The Customer shall bear all the costs required for putting an end to such attachment and recovering the retained goods, unless same can be collected from the third parties involved. If the Customer violates his obligation to treat retained goods with care or any other obligation to exercise due care, or in the event of default in respect of payment of secured debts, we shall be entitled to take back retained goods. Taking back goods shall only constitute a rescission of the contract if we make an express statement to this effect. On taking goods back, we shall be entitled to realise them, whereby any proceeds therefrom minus reasonable realisation costs shall be offset against the Customer's liabilities.

The same shall apply in all other instances when Customer's conduct breaches the contract. If the value of the collateral which can be realised exceeds the claims for which it constitutes security by over 10%, then to this extent and at the Customer's request we shall release collateral at the latter's option. If retention of title is not permitted or is permitted only to a certain extent under the laws of the Customer's country, our above rights shall be restricted to the extent permitted by law.

10. GENERAL PROVISIONS

All legal relations between us and the Customer shall be governed solely by German law. The application of the UN Convention Relating to a Uniform Law on the International Sale of Goods of 11.04.1980 is excluded. Exclusive venue for any disputes arising from the business relationship between us and the Customer shall be Frankfurt am Main, provided that the Customer is a registered merchant. Statutory provisions on exclusive venues shall remain unaffected. If any provision hereunder or in any supplementary agreement is or becomes entirely or partly inoperative, this shall not affect the validity of the rest of the agreement. The inoperative provision or the invalid part thereof shall be substituted by a legally effective provision which to all intents and purposes approximates the inoperative provision as closely as possible.