

General Terms and Conditions of Sale

A) General Terms

I. Conclusion of Contract

1. Our supplies and services are provided exclusively on the basis of the following terms and conditions. Purchaser's terms and conditions of purchase are hereby rejected.
2. The goods representing the subject-matter of the contract are restricted to such from our own production, unless otherwise agreed upon.
3. Our offers are not binding.
4. Offers made by the Purchaser are deemed to have been accepted by us only if we make an express declaration to that effect. Silence in response to such an offer does not constitute acceptance. The same also applies to commercial letters of confirmation sent in electronic form, has been agreed as the mutual form of communications in the business relation and transmission is made to the address expressly defined for the acceptance of such declarations.
5. Our declarations concerning the conclusion, modification or termination of contracts must be made in writing; however, unless otherwise agreed with the Purchaser, no qualified electronic signature necessary.
6. We reserve the right to revoke, with immediate effect, and at any col-lateral security is not or no longer available.

II. Terms and conditions of payment

1. Payment shall be due not later than the date based on the agreed terms.
2. If it has been agreed that the Purchaser shall release the goods for shipment within a certain period of time after our notification of readiness for shipment (release order), we are entitled to invoice the goods from the date of readiness for shipment. The payment due date shall be based on the date of material readiness. We reserve the rights stipulated in Part A. Section II. Clause 5.
3. Payment shall be made without deduction of cash discount and securing that the amount is available to us on due date. Purchaser is entitled to offset only against claims which are either undisputed or have become res judicata; Purchaser shall only be entitled to rights of retention insofar as they are based on one and the same contract.
4. In case of late payments, interest at the rate 15% per annum shall be charged for the delay period from due date.
5. If our claim for payment became a risk due to circumstances appearing subsequent to the conclusion of Contract which may be held as a significant deterioration of Purchaser's economic situation we are entitled to demand and receive immediate payment.
6. In case of a situation as under Clause 5 above as well as under Part A Section IV Clause 8 we are entitled to revoke Purchaser's authorization to collect payments (Part A Section IV Clause 7) from his customers and we are furthermore entitled to demand and receive advance payments for outstanding sup-plies.
7. Purchaser can avoid the consequences referred to under Clause 5 and Part A Section IV Clause 8 by furnishing collateral in the amount of our payment claim at risk. If, in the cases of Clause 5 or Part A. Section IV Clause 8., the Purchaser fails to make advance payment or furnish securities within a reason-able period of time, we are entitled to exercise the right of rescission to the exclusion of all claims for compensation on the part of the Purchaser.
8. The statutory provisions on default in payment shall remain unaffected.
9. In the event of default in payment that is due to a recognizable deterioration in the financial position of the Purchaser, we are also entitled to rescind the contract without necessitating that we specify a deadline for payment.

III. Collateral's

We are entitled to demand and obtain collateral's which are customary in the business in nature and amount, even if our claims are conditional or limited in time.

IV. Retention of title

1. All goods delivered shall remain our property (goods in which title is retained) until all accounts receivable from Purchaser are settled. This shall also apply to future and conditional claims.
2. Machining and processing of the goods in which title is retained take place on our behalf as we being the manufacturer in the meaning of, without any obligation on our part deriving there from. The machined and processed goods shall be deemed to be in which title is retained in the meaning of para. 1.
3. If the goods in which title is retained are processed, combined and mixed with other goods by Purchaser, we shall have joint title to the resultant merchandise, proportionally in the amount of the invoiced value of the goods in which title is retained. If by such combining, mixing or processing our title ceased to exist, Purchaser shall hereby assign to us the proprietary/prospective rights to which Purchaser is entitled in the new products, proportionally in the amount of the invoiced value of the goods. In such case Purchaser shall keep the new products in custody for us free of costs. In proportion to our co-ownership rights the new products shall be deemed to be goods in which title is retained as defined under Clause 1.
4. Goods in which title is retained may only be resold by Purchaser in the normal course of his business at normal terms and conditions and as long as he is not in default, always provided that he shall retain title on the products sold by him and the claims from the resale shall be assigned to us as set forth in Clauses 5 and 6. Purchaser shall not be entitled to dispose in any other way of the goods in which title is retained. Use of the goods in which title is retained to perform contracts Section IV.
5. All claims accruing to Purchaser from the resale of goods in which is retained are hereby assigned to us. They shall serve as collateral to the same extent as the goods in which title is retained in the meaning of Clause 1.
6. If the goods in which title is retained are resold by Purchaser together with other goods, the claim from the resale shall be assigned to us proportionally in the amount of the invoiced value of the goods in which title is retained. In the case of resale of goods in which we have coownership rights in accordance with Clause 3 we shall be assigned a part of the claim in the amount of our proportion of co-owner-ship.
7. Purchaser is entitled to collect claims resulting from the resale unless we revoke this authorization in the cases mentioned in Parts A Section II. Clause 5 and Section IV. Clause 8. At our request and unless we do so ourselves, Purchaser shall notify his customers immediately of the assignment to us and furnish us with the information and records required to effect collection of payment. Purchaser shall in no event be authorized to assign claims
8. In case of payment arrears we are entitled to forbid the further processing of the goods supplied, to claim restitution of the goods and, at our discretion, if required to enter the premises of Purchaser and remove the goods.
9. In case Purchaser's property were seized or other-wise became subject to third party rights Purchaser shall inform us immediately.
10. If the value of the existing collateral's exceeds the secured accounts receivable by more than 10% in total we shall be obliged, at Purchaser's request, to release collateral's in the appropriate value; in case of different kinds of collateral we are free which to release.

B) Execution of Delivery

I. Delivery periods, delivery dates

1. Delivery periods shall start with the date of our order confirmation, however, not before full clarification of all details of the order; the dates. All delivery periods and dates are conditional on there being no unforeseeable production stoppages and on our being supplied on time with the necessary feedstock materials and, in cases of trade goods, subject to availability and timely receipt of such quantities.
2. If Purchaser is in delay with his contractual obligations including cooperation obligations or ancillary duties, such as but not limited to opening of a letter of credit furnishing required domestic or foreign certificates or effecting advance payments, we are entitled - irrespective of any additional statutory or contractual right based on Purchaser's default # to appropriately extend our delivery periods and dates in accordance with the requirements of our production sequences.
3. The date of despatch ex works shall be decisive for determining our compliance with delivery periods or dates or any other mechanism agreed, whichever is later.
4. In cases of force majeure, the contractual obligations of both parties are suspended and the periods and dates for the fulfilment of contractual obligations are postponed accordingly; deemed to be circumstances of force majeure are also labour disputes in our own works or third party works, transport delays, machine failures, acts of sovereign nature, and other circumstances for which neither of the parties are responsible. The other contractual party must be notified without delay in the event of force majeure. Both contractual parties are entitled to withdraw from the contract at the earliest six weeks after receiving this notification. The Purchaser's rights to withdrawal from the contract pursuant to Part B. Section I Clause 7 remain unaffected.
5. In consideration of the sector specific high production lead times, the Purchaser has, in the event of failure to comply with delivery periods, the rights under this agreement are hereby protected as per the Indian Contract Act, ---only after he has granted us a reasonable extension for delivery combined with the declaration. - He will refuse acceptance after expiry of the extended delivery period; without delivery having been effected the right to claim performance is excluded. The specification of an additional delivery period combined with the declaration that he will refuse acceptance after expiry of that period is not required in case we seriously and definitely refuse performance.
6. Prior to passing of the risk, Purchaser is entitled to withdraw from the contract with prior notice in the event that the contract performance in whole finally turns out impossible to be fulfilled by us. Beyond such situation, Purchaser is also entitled to withdraw from the contract if a part of our contract obligations turn out impossible to be fulfilled by us and Purchaser has a legitimate reason to reject a partial fulfilment. Purchaser remains obligated to pay the contractual price corresponding to the partial delivery made. Impossibility in the meaning of this clause shall also include subjective impossibility. Besides Part C remains applicable.

II. Dimensions, weight and grade

Deviations from contracted dimension, weight or analysis are permitted within the range allowed by EN/DIN/IS/IEC or customary business practice. Weight shall be established on our calibrated weighing facilities and shall be decisive for invoicing. If items are not weighed individually in the ordinary course of business, the total weight of the consignment shall be used. Differences in contrast to the calculated individual weights shall be allocated proportionally. The Purchaser's right to demonstrate the falseness of our measuring method shall remain unaffected.

III. Shipment, packaging and passing of risk

1. We shall appoint the forwarder or the carrier unless otherwise specifically agreed in writing.
2. If, for a reason for which Purchaser is responsible, takeover or dispatch of the goods were delayed, we shall be entitled, at our discretion and at Purchaser's risk and expense, to put the goods into storage and to take all further measures deemed suitable to preserve the goods and we shall also be entitled in such case to invoice the goods as delivered. The same applies if goods notified ready for shipping are not called up in due course. The statutory regulations in respect of default in acceptance shall remain unaffected.

3. To the extent it is customary business practice, we will deliver the goods packed and protected against rust at the Purchaser's expense. We take back pack-aging, protective equipment and transport aids. Costs incurred by the Purchaser for a return transport or an own disposal of the packaging will not be reimbursed. An express agreement is required for any packaging beyond transportation purposes or for other type of special protection, e.g. for longer-term preservation or storage.

4. The risk shall pass to Purchaser when the goods are handed over to the forwarder or carrier, latest, how-ever, when leaving our plant or warehouse

IV. Claims based on defects

1. The goods are in conformity with the contract if they do not deviate significantly from the agreed specification at the time of passing of the risk; contract conformity and absence of defects concerning our goods are determined exclusively in accordance with the express agreements on quality and quantity of the goods ordered. Liability for a specific use or purpose or specific suitability is assumed only to the extent to which this is expressly agreed; otherwise the risk of suitability and use lies exclusively with the Purchaser. We are not liable for any deterioration or loss or improper treatment of the goods after the risk has passed.

2. Contents of the agreed specification and any expressly agreed purpose do not constitute a guarantee; the granting of a guarantee requires a written agreement.

3. The Purchaser has to examine goods upon receipt without delay. Claims based on defects are available only if defects are reported without delay in writing, concealed defects must be reported without delay after their discovery. After an agreed acceptance has taken place, any complaint about defects which should have been discovered in the course of the acceptance procedures is excluded.

4. In the event of complaints about defects, the Purchaser has to give us an opportunity to examine the goods alleged to be defective without delay; at our request, the goods alleged to be defective or a sample of the same must be made available to us. In the event that complaints are unjustified, we reserve the right to charge the freight and transshipment costs as well as the costs of examination.

5. In case of sales of downgraded goods no complaints are acceptable.

6. In the event of a defect we shall, at our discretion, taking into account the Purchaser's interests, -restore contract conformity either by delivering conforming products or by repair. We are entitled to refuse to remedy a claim if this were only possible at disproportionate costs to remedy the claim, including necessary expenditures, would exceed final invoice basic price of the commodity concerned. If we fail to restore contract conformity within a reasonable period of time, the Purchaser may notify us a reasonable deadline for compliance; if the deadline expires without compliance having been effected, the Purchaser may either reduce the selling price or withdraw from the contract; further claims, e.g. for damages or reimbursement of expenses are only available subject to the provisions in Part C.

C) General restriction of liability

1. Unless otherwise stipulated in these Terms and Conditions of Sale, we shall be liable to compensate incurred damages in the event of violation of contractual, including the phase of contract negotiations, only in case of intent or gross negligence on the part of our statutory representatives or contractual agents or for being at fault for violating essential contract obligations. In the event of being at fault for the violation of essential contract obligations, we shall be liable, except in the case of intent or gross negligence on the part of our statutory representatives or contractual agents only for the foreseeable, contract specific typical damage, but not for loss of production damages.

2. The above liability restrictions shall not apply in cases of harm to life, physical injury or harm to health.

3. Claims based on personal injury or damage to privately used goods under the Public Liability Act remains unaffected from the above.

D) Miscellaneous

I. Export certificate

If a Purchaser domiciled outside the Republic of India or an agent of said Purchaser collects goods and transports or dispatches them abroad the Purchaser shall furnish the export certificate required under tax law.

II. Applicable law

1. The substantive laws of Land of Republic of India shall apply as effective on date of dispatch.

III. Place of performance and legal venue

Place of performance for our supply obligations shall be the location from where we supply. The place of fulfilment for Purchaser's payment obligation as well as the place of jurisdiction for both Contract parties shall be either Nashik or Mumbai in the state of Maharashtra in India. We are also entitled to enter into legal proceedings against Purchaser at his general legal venue.