



PRODUKTE DURCH RECYCLING

§1 Validity

1. Our General Business Terms and Conditions apply to all present and future contracts even where no specific reference is made to the contract concerned in each case.
2. We expressly reject validity of any other business terms and conditions, in particular defense clauses set up against stipulated simple retention of title.

§2 Conclusion of contacts

1. The customer shall be committed to any quote or offer for a period of five days following the date of its submission, even if not immediately accepted by us.
2. Orders are deemed to have reached us upon notification or on surrender to our employees.

§3 Prices, terms of payment and defaults in payment

1. Unless stipulated otherwise, stipulated prices are to be interpreted as net, ex works.
2. In addition to the net prices referred to above, value added tax shall be payable to the amount valid on the date of delivery.
3. On occurrence of any default in payment, we shall be entitled to charge a lump sum of 10.00 Euros for each reminder sent out subsequent to the written reminder.

§ 4 Place of performance, shipping costs

1. The place of performance in respect of the merchandise purchased is deemed to be the domicile of our registered office in Thurnau, from where the customer is required to collect the goods at his own expense. If the customer requests dispatch of the merchandise to a different location, he is required to bear the resulting costs of transportation as well as risk of transportation.
2. The method of dispatch and route shall be determined by us unless the customer gives any express instructions in that respect. Transport risk is deemed to pass to the customer as soon as the merchandise has been surrendered to the freight forwarder or carrier destined for delivery to the person or institution concerned. This is also deemed to apply where delivery to the customer does not take place from our company headquarters.

§ 5 Partial performance and delays in delivery

1. Delays in delivery due to force majeure and events essentially impeding delivery and for which we are not responsible shall entitle us to extend the period of delivery by the duration of such hindrance plus a reasonable start-up period.
2. In the case of any non-committal delivery date, the customer may call upon us effect performance within a reasonable period of time two weeks after the said date has been exceeded. If we are responsible for having exceeded the said delivery date, we shall be deemed to be in default on receipt of such demand.
3. We shall be entitled to effect partial performance or delivery. In such cases the customer shall effect payment in respect of that partial performance rendered if and where partial performance is economically feasible.

§ 6 Retention of ownership

1. All merchandise purchased shall remain our property until the purchase price has been paid in full including all subsidiary claims.
2. We reserve rights of ownership attaching to all merchandise supplied by us until our claim resulting from the transaction has been paid in full, this also pertaining to future or contingent claims.
This is also deemed to apply when the purchase price has been paid for certain goods specified by the customer, since the reserved ownership serves a security for our overall receivables.

3. The customer is entitled to sell the merchandise subject to reservation of ownership in the ordinary course of business. The customer herewith assigns to us all claims resulting from resale of the goods subject to reservation of ownership by way of security.
Such claims serve as a means of security to the same extent as the merchandise subject to reservation of ownership. As a means of precaution in the event of any goods subject to reservation of ownership being sold by the customer together with other goods not purchased from us, claims resulting from resale are herewith assigned to us in the ratio of the invoice value of our own goods to such other merchandise thus sold. We herewith accept such assignment and authorize the customer to collect the claims due to be assigned to us in his own name and for his own account. In the event of the customer being in arrears with the payment of claims resulting from the current business transaction, we shall be entitled to countermand authorization to effect such collection. The customer is then under obligation to furnish us with information required for collection of the claim and to surrender all original documentation in connection therewith.
4. Where the said goods subject to reservation of ownership are processed, combined or commingled with other goods by the customer, we shall be entitled to co-ownership of the new goods proportionate thereto in the ratio of the invoice value of the merchandise subject to reservation of ownership to the invoice value of the other goods thus used.
5. Should the value of the security existing in respect of our total claim in each case (goods subject to reservation of ownership and assigned claims) exceed the value of our claims due and payable by more than 20%, we undertake, at our own discretion, to release the said security to that extent on request made the customer.
6. In the event of the customer becoming involved in arrears with the payment of a purchase-money claim in respect of any specific merchandise – in whole or in part – the customer's right to resell the same shall then become null and void. In that case and after a further reminder referring to the said right having become null and void, we shall be entitled to demand surrender of the goods until payment of the purchase price in respect thereof has been effected in full including all subsidiary claims. The assertion of claims for surrender of the goods subject to reservation of ownership is not deemed to imply suspension of or withdrawal from the contract.
After payment has been rendered in full, we undertake to effect re-delivery to the customer of the goods held in storage at customer's expense. During the period of such storage, the customer shall bear the risk of any loss or damage occurring to the goods unless blame attaches to us in that respect. The customer shall bear the costs of such storage.
7. In case of seizure or attachment of the goods subject to reservation – especially by bailiffs – the customer undertakes to draw attention to our ownership thereof and to effect notification to us without delay. Any costs or damages arising through demands for release of the same shall be borne by the customer unless these have arisen through any fault of our own.

§ 7 Technical and chemical data

Technical and chemical data on the purchased product as well as advice with regard to its application are given by the seller to the best of his knowledge and belief; however such data and advice is to be interpreted in all cases as non-binding information which does not relieve the customer of customer's due diligence to comply with legal and official regulations. Information provided by the seller is only to be implied as warranted or guaranteed properties if specifically expressed as such in writing.

§ 8 Warranty

1. Should our merchandise prove to be defective, we shall be entitled to effect subsequent performance. Multiple instances of subsequent performance shall be admissible.
In the event of such performance failing after a reasonably set deadline – including the duration of chemical analysis, if any – the customer may, if statutory preconditions prevail, withdraw from the contract or request a reduction in the price stipulated or demand compensation in accordance with the limitation of liability set forth under § 11 in the case of any defect substantiated as having been caused through our fault.

2. Claims asserted by the customer due to defects of the merchandise, discrepancies in quantity or incorrect delivery shall become null and void if not immediately reported by the customer. Provisions of Section 377 HGB, the German Commercial Code, apply in this respect; all complaints are required to be made in writing.
3. We have compiled data sheets and safety-data sheets in respect of PREPUR, PREMOD and TRIGAS products which are supplied by us to the customer at the latest on delivery. Deviations customary in the trade from data listed in our technical data sheets are unavoidable as occasioned by the current state of the art in each case and do not entitle the customer to assert any warranty claims.
4. Items delivered with the addition of the suffix "B Quality" or "C Quality" are sold under exclusion of all warranty.
5. Warranty claims become statute-barred within one year of delivery of the product. This does not apply to claims asserted in accordance with the law governing warranties. In that case, the statutory period of warranty is deemed to apply. The extent of liability is governed in accordance with § 11.

§ 9 Withdrawal

1. We shall be entitled to withdraw from the contract to the exclusion of claims for damages in the case of delays in delivery for which we are not responsible and which – not just temporarily – render our performance difficult or impossible such as force majeure, industrial dispute, lockout, official ordinances, etc.
2. To the exclusion of claims for damages we shall be entitled to withdraw from the contract in the event of the rate of return in respect of used PU-foam cans falling below our legitimate expectations due to no fault of our own with the consequence that we are left with no raw materials at our disposal.
3. We are only entitled to exercise the rights and entitlements specified in paragraphs 1 and 2 if we have notified the customer of the circumstances prevailing in each case immediately on our becoming aware of the same.

§ 10 Rights of offsetting and retention

1. Any offsetting against our claims is ruled out if the counterclaim has not been finally determined by a court of law or is disputed by us.
2. Rights of retention cannot be asserted by the customer.

§ 11 Liability and compensation

1. We incur:
 - (a) no liability for abnormal damages not typically associated with the contract where gross negligence on the part of ourselves or any of our managerial staff is the cause of the incident;
 - (b) liability for gross negligence on the part of common vicarious agents only up to the amount of the purchase price of the merchandise concerned;
 - (c) no liability for breach of duty on our own part, on the part of any of our managerial staff or any of our vicarious agents in the event of ordinary or minor negligence occurring.
2. Limitation of liability alluded to under 1 is not deemed to apply if any cardinal obligation has been violated or in the event of harm to life, body or health. Cardinal obligations are deemed to be obligations, the fulfillment of which makes proper implementation of the contract possible in the first place and compliance with which the contracting parties may normally rely on.
3. Where we reject claims for damages in writing, stating simultaneously reasons for such rejection, this is deemed to release us from performance unless the customer lodges action within one year. This deadline period commences as soon as we have drawn attention to the legal consequences resulting from the failure to observe the limitation period. Statutory limitation periods are not extended under this agreement.

§ 12 Compensatory damages

Should we be entitled to claim for compensation due to non-performance, this will entitle us to demand lump-sum damages amounting to 20% of the stipulated purchase price without our having to furnish proof of the actual damages occurring. The amount of the compensation for damages shall be set higher or lower if we prove that the damages were higher or the customer proves that they were lower.

§ 13 Stipulations on jurisdiction

1. If the customer is entered as a merchant in the Commercial Register or belongs to the group of persons referred to in Section 38 of the German Code of Civil Procedure (ZPO), Kulmbach is deemed to be the legal venue for both parties in respect of disputes arising from the contract and all legal relationships in connection therewith; at our option, that court of justice competent for the domicile of the customer's registered office may also serve as the legal venue.
2. Kulmbach is also deemed to be the legal venue in the event of the customer having moved his place of residence or common domicile away from the area of validity covered by the law of the Federal Republic of Germany or if his place of residence or common domicile is unknown.

PDR Recycling GmbH + Co KG, 01.08.2012