

Rudolf GmbH – Export Conditions Great Britain

I. Offer, Conclusion of Contract

1. The following General Export Conditions shall apply to all deliveries and services provided by us, unless specially otherwise specified. Any varying conditions of the ordering party are not binding for us. The receipt of deliveries or services shall be deemed as acceptance of our conditions.

Our offers are subject to confirmation, unless expressly otherwise provided.

2. The documents appertaining to the offer, such as brochures, samples and weight specifications are approximate only, unless they have expressly been declared as binding. The supplier may with due regard to the ordering party's interests, vary the technical structure and the chemical composition of the products.

3. Collateral agreements, amendments and modifications of these terms of delivery should be laid down between the Parties in writing.

4. Extent, quality and substance of the delivery shall be governed by the supplier's written confirmation of order or – if such confirmation is not given - by the supplier's invoice.

II. Prices

1. Prices are plus VAT. As far as price calculation is concerned, the weight, the number of items and the quantities as determined by the Supplier shall prevail, unless the ordering party immediately makes his objections. Transportation insurance is for the ordering party's account, unless the separate agreement determines otherwise.

2. The prices shall be governed by the respective separate agreements subject to the following proviso: if the period between order and delivery exceeds three months, the supplier shall in case of a rise in costs in fulfilling the order be entitled to increase prices up to 10%. If a price modification of more than 10% is necessary, the contracting parties shall have to come to an understanding in this matter. If a settlement cannot be achieved, the supplier shall have the option either to withdraw from the contract or to carry out delivery at the original price plus 10%. In case of withdrawal the ordering party shall not be entitled to any claims for damages against the supplier, of any kind whatsoever.

III. Delivery

1. Delivery dates shall be governed by the relevant separate agreements. The delivery dates shall be deemed to be observed if the supplier has given notice of his readiness to ship and yet, the ordering party does not accept the goods within the delivery deadline.

2. The ordering party shall be liable to take immediate delivery of the consigned goods and documents, even if the goods show signs of negligible defects or if the quantity is deviating to an extent customary in trade from the ordered quantity. If the ordering party notwithstanding does not take delivery of the goods or refuses to accept the documents, he shall be liable to pay all costs, fees, the loss of interest, storage expenses, customs duties and, as the case may be, costs incurred from the auction of the goods.

3. Interruptions of operations, exceeding of the delivery time or non-deliveries of subcontractors of the supplier, lack of raw materials, energy or human resources, strikes, lock-outs, difficulties in the procuring of the means of transportation, traffic interruptions, orders of higher authority and other cases of force majeure on the supplier's and his sub-supplier's side which are considerable and unforeseeable by the supplier and not caused by the supplier shall extend the delivery time for the duration of the impediment to the extent they are of importance for the ability to supply the goods. The supplier shall inform the ordering party as soon as possible about the beginning and the end of such impediments.

4. Part deliveries that are acceptable for the ordering party shall be admissible. Deliveries shall as a rule be made in standard packaging.

5. The obligation of the supplier to deliver shall be suspended for all transactions with the ordering party so long as the latter in spite of a reminder is behind on a payment which is due.

6. Unless otherwise provided by separate agreements between the contracting parties, the ordering party shall obtain permits, documents and fulfil other requirements for the import of the goods and the payment of the sales price; the supplier shall obtain all necessary documentation for export.

7. If the dispatch is delayed by circumstances the ordering party is responsible for, the risk shall pass to the ordering party from the day of readiness for dispatch; the supplier shall, however, be liable to effect upon request and on account of the ordering party, the insurance the latter requests.

IV. Dispatch, Transfer of Risk, Packaging

1. Unless otherwise provided, the supplier shall choose the route and method of dispatch taking the interests of the ordering party reasonably into account.

2. The risk of destruction, loss of or damage to the goods shall pass to the ordering party with the dispatch of the goods to the person appointed to dispatch the goods or, in the case of collection, the risk shall pass to the ordering party when the supplier has made the goods available for collection and informed the ordering party to this effect. This shall also apply to freight pre-paid delivery.

3. Rejected goods may only be returned with explicit consent of the supplier.

4. The ordering party shall sent back returnable packing without delay and at his own cost. Any loss or damage of returnable packing, as long as such packing has not been received back by the supplier, shall be borne by the ordering party if he is responsible for this. Returnable packing may not be used for other purposes or for containing other products. They are exclusively intended for the transportation of the delivered goods. Labels may not be removed.

5. Where commercial terms such as fob, cif, ex works etc. are agreed upon, they shall be interpreted in accordance with the Incoterms in their version applicable on the date of the conclusion of contract.

V. Payment

1. Payment shall be governed by the relevant separate agreements. Bills of exchange and cheques shall be accepted only according to specific agreement and shall not be deemed to constitute payment or be in lieu of payment. The ordering party has to bear the bank's discount charges and costs. Payment shall only be deemed to be effected when the amount is definitely available on an account of the supplier. Retention and set-off based on claims of the ordering party that are disputed by the supplier shall be excluded.

2. The supplier reserves the right to apply at his own choice payments in discharge of the oldest invoice items plus default interests and costs accrued in the following order: costs, interest and principle debt. Debts for which a claim is made in respect of defects shall be exempted from this provision.

3. Payments by letter of credit shall be governed by the UNIFORM CUSTOMS AND PRACTISES FOR DOCUMENTARY CREDITS valid from time to time, issued by the ICC, Paris.

If payment is effected by way of cheque, bill of exchange, letter of credit, cash against documents, documents against acceptance and the similar this shall be isolated from the underlying transaction. Therefore the ordering party must refrain from any interference with the flow of payment, in particular in case of complaints about defects.

4. The non-compliance with agreed terms of payment or any other conditions from which, on application of standards customary in banking, a considerable deterioration of the financial circumstances can be concluded, shall entail immediate maturity of all claims of the supplier that are based on the same legal relationship. The supplier shall be entitled to demand payment in advance for still outstanding deliveries as well as to withdraw from the contract at reasonable notice or to claim damages for non-performance; moreover he shall be entitled to prohibit the ordering party from resale and processing of the goods which have been delivered but not yet been paid for and to recover the unpaid goods at the expense of the ordering party.

5. If payment has not or not fully been effected within the agreed period the ordering party, according to Section 288 Paragraph II of the German Civil Code [§ 288 II BGB (Bürgerliches Gesetzbuch)], has to pay interest at the rate of 8%

over the base rate pursuant to Section 247 of the German Civil Code [§ 247 BGB] calculated on the still outstanding amount. This does not effect the supplier's right to claim additional damages from the ordering party for the latter's default.

VI. Complaints, Claims based on Defects, Liability

1. Complaints with respect to quality or quantity are immediately, in any case not later than two weeks after receipt of the goods, to be notified in writing to the supplier quoting the invoice and shipping number, the product name and the package marking, latent defects shall be notified not later than one week after their detection.

2. The ordering party shall check – if required by sample testing – the delivered goods as to their adequacy for their planned application.

3. In case of duly notified and substantiated complaints, the supplier shall be entitled to provide subsequent performance within a reasonable length of time. If the subsequent performance fails two times, or if it becomes impossible, is unduly refused or unacceptable for the ordering party, the ordering party shall be entitled at his own choice to reduce the purchase price or to rescind the contract.

4. Damage claims and claims of compensation for expenses of the ordering party (damage claims), based on any legal ground whatsoever, above all those arising from any violation of obligations based on the relationship of debenture and from tort – shall be excluded. This shall not apply to the cases of compulsory liability according to the German Product Liability Act [Produkthaftungsgesetz] and in cases of injuring the life, body or health, and this shall further not apply to the cases of intentional or grossly negligent causation of damage.

In cases of a violation of essential obligations of contract the damage claim shall be limited to the damage that is typical to this type of contract and foreseeable, unless one of the above-mentioned causes of liability which cannot be excluded do exist. Any liability for consequential damages arising from violations of obligations shall be excluded, unless the obligation which was violated had been intended to protect especially against such consequential damages. The preceding provisions do not imply a change of the burden of proof to the disadvantage of the ordering party.

5. The preceding exclusions of liability shall also apply to the individual liability of the employees, staff, assistants, agents and any other vicarious agents.

6. Claims of the ordering party arising from a guarantee shall remain unaffected by the preceding provisions.

7. Claims based on defects regarding the delivered products shall become time-barred after one year, with the exception of claims of the ordering party against the supplier arising from defects fraudulently concealed.

VII. Advice on Technical Application

1. Advice on technical application shall be provided by the supplier to the best of his knowledge. All data and information relating to suitability and application of the products shall not relieve the ordering party from conducting his own checks and tests with regard to suitability of the products for the envisaged processes and purposes.
2. Furthermore, the ordering party must absolutely observe the specifications of the safety data sheet for the handling the delivered substances and their respective field of application.
3. The ordering party shall be liable to give written advice to the supplier about the current national technical standards applicable to the delivered goods. If he fails to do so, he shall not be entitled to hold the supplier liable for non-compliance with these standards. In this case the ordering party shall further be responsible for relieving the supplier of any resulting liability towards third parties. Such relief from liability is not applicable if the supplier has contravened the regulations of the ordering party's country in knowledge of these mentioned standards with intent or by gross negligence.
4. If the ordering party intends to use the delivered goods for other purposes than discussed and – orally or in writing - agreed with the supplier, then he may do this only after extensive testing and examination and after having obtained the licences and/or certificates issued by the authorities, if required.

VIII. Reservation of Ownership

1. Legal ownership of each item of goods dispatched by the supplier to the ordering party shall remain in the supplier until the ordering party has paid all sums in full due to the supplier whether in respect of such goods or due to any other account whatsoever.
2. The ordering party may sell the goods in the ordinary course of business. If the ordering party sells the goods to a third party, the supplier shall be entitled to the proceeds from this sale, which must be paid into a separate bank account, up to the amount of the purchase price. The ordering party shall be obliged to notify his purchasers of the cession and to give to the supplier the information and documents that are required for the assertion of the supplier's claim against the purchasers.

Before the passing of the property in any single item of the goods to the ordering party, the ordering party shall hold such goods as bailee for the supplier and keep and store the same in such a manner as to be identifiable as the property of the supplier. The ordering party shall not be entitled to combine, mix or process the delivered substances until the purchase price has been paid to the supplier.

3. If validity of the reservation of ownership depends on special registration or other additional conditions, then the ordering party is responsible for meeting

these requirements or alternatively giving information and assistance to the supplier as necessary.

4. If the reservation of ownership is invalid, independent of the ground, the ordering party shall on request of the supplier undertake to provide security equal to the amount of the value of the delivered goods.

5. In the event of default in payment of the ordering party the supplier shall be entitled to demand the provisional restitution of the goods owned by the supplier, even without exertion of the right of rescission and without extension of the time for payment at the cost of the ordering party.

IX. Place of Performance and Place of Jurisdiction

1. Place of performance for the delivery shall be the relevant dispatch point of the supplier; for payment it shall be his registered office.

2. Place of jurisdiction shall be at the supplier's option, either at his registered office or the place of general jurisdiction of the ordering party; this shall apply equally to proceedings on documents, bills of exchange and cheques.

3. The contractual relationship and all legal relations arising therefrom shall be governed solely by the law of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

X. Invalid Clauses, Language

1. The invalidity of one or several clauses does not affect the validity of the remaining provisions or the validity of the contract. The contracting parties shall be obliged to replace the invalid clauses by other provisions which come as close as possible to the invalid clauses as regards their commercial purpose.

2. The German text of these Export Conditions shall be decisive. Any difficulties or uncertainties in interpretation shall solely be resolved by reference to the German text.