

## General terms and conditions of sale and delivery

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### Preamble

The following conditions of sale and delivery apply to all current and future sales to contractors in accordance with Section 14 of the German Civil Code, legal entities of public law or special assets under public law ("Buyer"). The general conditions of purchase for the buyer are not subject to the terms of the contract. This also applies if they are not expressly contradicted by us. The exceptional validity of other terms requires expressly written confirmation on our part.

### Article 1 Offer and acceptance

- 1) Our offers are made without obligation. Orders are only binding to us if and when they are confirmed in writing by us within 2 weeks of being submitted or their implementation has already begun. Verbal agreements, confirmation and guarantees of our employees in connection with the conclusion of the contract are only binding with the written confirmation of our managing directors or of two executive directors. Advice regarding the use of technology, consultation, information or recommendations is only binding when confirmed in writing.
- 2) Indications of quantity are adhered to as accurately as possible. Safety and bottling related variations of 2.0 % +/- apply as stipulated in the contract in the case of delivery by tanker and will be taken into consideration in the invoice and reduced or increased accordingly.

### Article 2 Purchase price and payment

- 1) Our prices exclude statutory value added tax applicable on the day of delivery. The calculation is based on the established quantities or weight, the rate will be that ruling at time of delivery. In individual cases, with our prior approval, weighing can take place on calibrated scales at the customer's premises. Additional costs, which take place as part of an emergency delivery, are to be paid by the buyer.
- 2) Unless otherwise agreed, the terms of payment will be offered individually for each purchase.
- 3) In a case of arrears we calculate the interest on arrears to the amount of 8 percentage points above the Deutsche Bank AG Commercial Rate.
- 4) Cheques are only accepted on account of performance; they are only valid as payment when they have been cashed. All incurred bank charges are paid by the buyer.

5) The buyer may only make claims against our purchase price which are undisputed or which have been determined as legally valid. He is only entitled to rights of retention insofar as they arise from the same contractual relationship.

6) If after confirmation of the contract it becomes clear that our entitlement to payment is endangered due to an objective lack of creditworthiness, we are entitled to demand that all unpaid claims from this contractual relationship are settled. Furthermore, we are entitled to make outstanding deliveries dependent on advance payments or appropriate securities and withdraw from all contracts which have these general conditions of sale and delivery and provided they have not yet been fulfilled, completely or partly withdraw, if the buyer does not comply with our request to make advance payments or securities within a reasonable period of time.

### Article 3 Delivery

- 1) The delivery periods and dates provided by us are approximate, unless a fixed date has been agreed.
- 2) Cases of force majeure, which also include public restrictions such as strikes and lockouts, entitle us to withdraw from the contract provided they are beyond our control and they are not temporary interruptions. The buyer is also entitled to withdraw from the sales agreement.

In case of temporary obstacles to performance due to reasons we are not responsible for, the agreed delivery period extends to the period of the obstacle to performance. If the respective interruption leads to a delay in performance of more than three months, the buyer can withdraw from the contract after a reasonable extension regarding the unfulfilled contract. Other legal rights to rescind are not affected.

The aforementioned provisions also apply in the case of late delivery to us by our suppliers even if it is through no fault of our own, provided we have carried out an equivalent legal transaction.

Damages for breaches of duty for which we are not responsible are excluded in all cases.

We will inform the buyer of such events immediately.

**3)** If we delay delivery the buyer is obliged to grant a reasonable extension and can withdraw from the contract after this period has elapsed without satisfactory resolution. Damages for the delay in delivery after the extension period has elapsed can only be claimed in accordance with Article 8.

**4)** Unless otherwise agreed by contract, we deliver on the basis of INCOTERMS® 2020.

#### **Article 4 Dispatch and acceptance**

**1)** The transport risks from the place of delivery always pass to the buyer, even in the case of free delivery.

**2)** The unloading and storing of the goods is the responsibility of the buyer.

**3)** For deliveries by tanker the recipient must ensure the correct technical condition of his tanks or other storage containers and is solely responsible for arranging the connection of the feed ducts to the system. The buyer must also ensure that there is suitable road access for the tanker making the delivery. Our commitment is limited solely to the operation of the vehicle's facilities.

**4)** As far as our employees can be of assistance beyond that when unloading or drawing from the tank and in the process cause damage to the goods or other damage, they act at the sole risk of the buyer and not as our agents.

**5)** The aforementioned provisions apply accordingly when the delivery takes place through third party hauliers, provided a liability of the seller can be derived from this. The liability of the third party is unaffected.

#### **Article 5 Packaging**

When delivering by tanker the buyer has the sole responsibility for rapid emptying of the container. In case of an extension of the waiting time at his company for which the buyer is responsible, the additional costs will be passed to the buyer.

#### **Article 6 Reservation of proprietary rights**

**1)** Proprietary rights to the goods only pass to the buyer with full payment of the purchase price and all other costs, including claims arising in the future from the business relationship with us. This also applies when payments are made for specifically

designated claims. In the case of current invoices the retained proprietary rights shall be seen as security for our balance claim. Proprietary rights pass over to the buyer at the moment we no longer have an indisputable claim against him.

**2)** Provided the buyer properly fulfils the obligations towards us and is not in arrears further use of the goods in the usual course of business is authorised, under the condition that their claims from resale pass over to us in accordance with Article 5.

**3)** If the buyer fails to meet his payment obligations following an extension we are entitled to withdraw from the contract without further extensions and reclaim the goods. For the purposes of taking back the goods we are entitled, if necessary, to enter the buyer's business premises and recover our goods.

**4)** Treatment or processing of the goods shall be carried out on our behalf without any obligation on our part. We are deemed the manufacturer in accordance with Section 950 of the German Civil Code and acquire proprietary rights to the intermediate and end products in relation to the sale of our goods for the sale of third party goods; in this respect the buyer holds for us in trust and free of charge. The same applies in the case of combining or mixing of goods with third party goods in accordance with Sections 947 and 948 of the German Civil Code.

**5)** The buyer hereby transfers all claims arising from the resale of goods against third parties to ensure all of our claims. If the buyer sells goods in which we only have shared ownership in accordance with Article 4, he hereby transfers the claims against third parties for the corresponding amount to us. If the buyer uses the goods as part of a work contract (or similar) the (wage) claim to the sum of the invoice value is transferred to us. We hereby agree to the assignment.

**6)** In a normal course of business the buyer is empowered to collect the amounts from the further use of the goods. Should we become aware that there is a significant deterioration in the buyer's financial situation we reserve the right to collect the amounts ourselves. In this case the buyer is obliged to inform his customers of the assignment, refrain from making claims, give us all the necessary information about the goods owned by us and the claims assigned to us as well as hand over the documents in order to assert the assigned claims. The buyer must notify us immediately about any access by third parties to the goods and to the assigned claims.

**7)** If the value of the securities to which we are entitled exceeds the total claim against the buyer by

more than 10% in the long term we are obliged to release the securities of our choice upon the buyer's request.

#### **Article 7 Warranty rights, test requirements and notification of defects by the buyer**

**1)** For any defects in the goods we guarantee, under the conditions outlined in Article 2, a rectification of the defect or a replacement delivery. Should the subsequent performance fail the buyer can either reduce the purchase price or withdraw from the contract. In case of insignificant defects the right to withdraw is excluded.

**2)** For our guarantee in accordance with Article 1 the following requirements, alongside the legal requirements, must be adhered to:

**a.** The buyer must examine the goods and the packaging according to normal business practice immediately after delivery. If the goods are delivered in packages the buyer must also check the labels of each individual package to ensure it matches the order.

**b.** When examining identified defects the buyer must give written notification within 7 days.

**c.** If the buyer fails to carry out the investigation or does not give notification of a detected or recognisable defect immediately the goods shall be deemed to be approved. The same applies in the case of an accidentally incorrect delivery, even in the case of a delivery which deviates so significantly that acceptance of the goods by the buyer would be viewed as impossible.

**d.** In the case of a hidden defect the buyer must give written notification as soon as it is discovered. Otherwise the goods shall be deemed to have been accepted.

**3)** For material damage we are liable for damages or for claims for reimbursement of expenses in accordance with the following Article 8.

#### **Article 8 Liability for damages and written consultation**

**1)** We are fully liable for damages which are based on a wilful or grossly negligent breach of duty on our part. In cases of slight negligence we are only liable for breaches of important contractual duties, restricted to foreseeable, direct average damage typical of contracts of this type depending on the type of goods. This also applies to cases of slight negligence by our legal representatives or agents.

**2)** The aforementioned limitation of liability does not apply to claims of the buyer in the case of fraudulent concealment of a defect, from a quality guarantee,

according to the Product Liability Act and if we, our legal representatives or agents are responsible for the loss of life, physical injury or damage to health.  
**(3)** For consultation, the supply of information or recommendations we are liable in accordance with Articles (1) and (2) and only when they have been made available in writing.

#### **Article 9 Place of jurisdiction, applicable law, severability clause**

**1)** Changes and/or additions to the sales agreement must be made in writing. This also applies to a cancellation of the written form requirement itself.

**2)** Hamburg is the exclusive place of jurisdiction.

**3)** The laws of the Federal Republic of Germany apply, to the exclusion of the conflict of laws and the UN Convention on Contracts for the International Sale of Goods.

**4)** If individual provisions of this sales agreement or one of the aforementioned clauses is or becomes invalid, the validity of the remaining provisions shall not be affected. In place of the fully or partly invalid provision a provision should appear which comes closest to the economic function of the contract taking account of the interests of both parties.

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