

General Conditions of Sale of AKRO-PLASTIC GmbH and its branches AF-COLOR and BIO-FED

1. Generalities – application area

- 1.1. Our conditions of sale shall exclusively apply. Opposed buyer conditions or those differing from our conditions of sale shall solely apply, if our company agrees to those in writing. Our general conditions of sale shall also apply in the event that we, being aware of conflicting or differing general terms and conditions of the buyer perform delivery due to this agreement without reservation.
- 1.2. Our conditions of sale shall also apply for all prospective businesses with the buyer.
- 1.3. Our terms of sale shall exclusively apply for companies in terms of § 14 clause 1 BGB, entities of law and special fund under public law.
- 1.4. The Commercial Terms being agreed to within the order confirmation and used in these general conditions of sale shall be construed in accordance with the INCOTERMS in force at the time of concluding the contract.

2. Conclusion of contract

- 2.1. All contractual agreements between us and the buyer are only deemed binding in writing within the respective contract.
- 2.2. Our offers are subject to change, requesting the buyer to make an offer. The contract becomes valid by placing an order and our acceptance in terms of an order confirmation or by issuing the invoice in terms of delivery.
- 2.3. Explicit condition for the sales contract is that goods determined for export are being solely delivered to the country of destination determined at the time of purchase.

3. Purchase price

- 3.1. Our prices are exclusive of VAT. It is separately reported within the invoice in the amount regulated by law on the day of issuing the invoice.
- 3.2. When forwarding the goods, the final weight shall be deemed binding in terms of issuing an invoice.
- 3.3. If reductions or increases in price especially occur due to introduction of or change of public charges of any kind of imported goods, change of currency parities, change of prices of semi-finished goods or change of general circumstances not being covered by our company, we can accordingly adjust our prices. Reductions or increases in price will be substantiated to the buyer in case of demand.
- 3.4. For products with registered trademarks of domestic manufacturers, differing from the final prices, the prices being valid on delivery day shall be deemed binding. Should those have increased compared to the prices being indicated in the offer or order confirmation, the buyer shall be entitled to resign from delivery or part-delivery being affected by price increases. However, a right of withdrawal shall not apply for increases solely implied by VAT.
- 3.5. Freight increases, flood and low water bonuses, ice bonuses, express goods and other special freight charges of any kind must be paid by the buyer.

4. Conditions of payment

- 4.1. For payment, the conditions being specified in the order confirmation or invoice are deemed binding.
- 4.2. Payment must be effected without deduction (especially without deduction of discount), if nothing else is agreed upon in writing.
- 4.3. The buyer is in default on payment, if he does not pay on the contractually determined date or if he does not pay after having received our reminder at the latest though 30 days after having received our invoice, if a date of payment is not determined.
- 4.4. The buyer's payment is being always used in opposition to a possible amortization determination for the oldest payable invoice.
- 4.5. Drafts and checks will only be accepted on account of performance. If drafts are being accepted by our company, discount- and bank service charges are debited to the buyer and must be immediately paid in cash. Payment by draft or check shall not apply as cash payment.
- 4.6. If there are justified doubts concerning buyers' liquidity, especially in case of outstanding payment, we are entitled to revoke granted terms of payment. If drafts are falling due later, we reserve the right to require cash payment against return of draft.
- 4.7. In the event of delay in payment, we reserve the right to charge an interest of 8 percentage points per year above the prime rate in accordance with § 247 BGB. We reserve the right in applying for further remedies.
- 4.8. The buyer can only make use of set-off rights as well as rights of retention in case of requirements being undoubtedly or legally adjudicated.
- 4.9. The buyer bears the risk of an eventual currency devaluation of currency fixed in the contract.

5. Delivery and acceptance

- 5.1. Agreed dates of delivery refer to the shipping date of goods and are being adhered to if possible. In case of culpable exceeding of delivery date, the buyer is allowed to resign from the unrealized part of contract after an extension of time being stipulated by him.

- 5.2. Whilst the buyer is in arrears with an obligation resulting from the continuing business relationship, our delivery obligation is at rest.
- 5.3. If there are justified doubts concerning buyers' liquidity, especially in case of outstanding payment, we shall be entitled to make delivery dependent on advanced payment or concession of securities.
- 5.4. We shall be entitled to part deliveries, as far as those are economically reasonable to the buyer.
- 5.5. In case of FOB-sales, if nothing else is agreed upon in writing, the buyer shall provide a liner (Liner-terms) ready for loading in an adequate position within 24 hours after receipt of goods. Any charges caused by nonobservance of this condition have to be paid by the buyer.
- 5.6. Should transport be constantly or partly impossible without our company being responsible for this occurrence, notwithstanding, the purchase price is falling due. In case of this, we are entitled to store the goods at the buyers' risk and expense.
- 5.7. In case of events and circumstances beyond our and our suppliers' reasonable control, like force majeure, natural disasters, wars, industrial conflicts, shortage of operators, shortage of energy and raw material, traffic congestions or disturbances, official instructions, fire- and explosion losses, the agreed terms of delivery shall be correspondingly extended for the time of obstacle inclusive of an adequate starting period. The period will be either extended, if we are not being punctually supplied independent of our negligence, in spite of having concluded a contractual coverage. Should the obstacle take longer than two months, we as well as the buyer are entitled to withdraw from the contract as to the unrealized part. In case of an extension of delivery time or disengagement of terms of delivery, the buyer is not entitled to claim for damages.
- 5.8. The insertion "circa" or "ca" in front of a certain quantity entitles us to increase or decrease delivery by up to 10 %.

6. Packaging

- 6.1. For delivery in returnable packaging, our special conditions shall apply, being sent to the buyer if required. One way packaging can only be re-used in business after having made the company's sign as well as the name and identification unrecognizable.

7. Shipment and assurance

- 7.1. Delivery is dispatched at the buyers' risk, even in case of carriage paid delivery.
- 7.2. We only arrange transport being effected for the buyer. Insurance of goods during transport shall always be at the buyers' risk.
- 7.3. Carriage paid delivery signifies "carriage paid full railway station of buyer" Mode of shipment and shipment route are being determined by our company. We will be mightily trying to consider the buyers' wishes.
- 7.4. In case of consignment stores, the buyer bears the risk of loss or damage of our goods being stored at his premises. In this respect, the buyer shall be obliged to cover an adequate insurance, being certifiable to us if required.

8. Defects and obligation of reproval

- 8.1. The buyer shall be deemed to check the goods immediately upon arrival for shortages and obvious defects. If necessary, the buyer has to check by trial processing, if the goods delivered are in perfect condition and appropriate for the purpose agreed on.
- 8.2. Obvious defects established in case of examining the goods shall be notified to us immediately, at the latest within 8 days after having received the goods; non-obvious defects shall be notified to us immediately after having discovered them in writing, stating order data and invoice-, manufacturing- and shipment number. If the buyer does not adhere to this indication, the goods are deemed to be approved. Precondition for acceptance of any kind of complaint assumes correct storage of goods upon arrival.
- 8.3. In case of goods subject to export, the buyer shall be deemed to check the goods immediately upon arrival and obvious defects and/or shortages emerging shall be notified to us immediately after unloading. Notification has to be made in writing stating the cause, permitting verification.
- 8.4. In case of FOB- or FAS- sales, the check has to be effected at the port of loading on the quayside or at the ship before shipment, in case of CIF- and CFR-sales immediately after unloading, as possible before settlement of customs duty.
- 8.5. If the goods are being dispatched by the buyer without reloading, the check must still be effected at the first place of destination.
- 8.6. Clauses, being added to the bill of lading or other documents by shipping agents or ship-owners are inconclusive.
- 8.7. In case of duly raised and substantiated claims, we shall be solely obliged to replace the goods after having checked them. Should this be impossible or even subsequent delivery contains any defects, the buyer shall be entitled to require for redhibitory action or diminution. Redhibitory action assumes the goods being in the same condition as upon delivery. Should the buyer substantiate processing or selling the goods without having infringed upon obligation of reproval, the

- buyer shall be entitled to get the purchase price diminished for this part of the goods.
- 8.8. The claim shall exclusively cover verifiably rejected goods, without contacting the buyers' acceptance duty concerning the outstanding contractual amount.
- 8.9. Rejected goods may only be subject to return shipment and solely to the address chosen by our company, in case that we have not managed to collect the goods at the buyers' premises within an adequate period of time despite being requested twice.
- 8.10. The warranty period shall be effective for one year upon delivery of goods.
- 9. Force majeure**
- 9.1. In the event of delivery being substantially delayed due to any cause being justifiable by our company, the buyer shall be entitled to claim compensation for delays after having accorded us an adequate, effectlessly expired extension of time.
- 9.2. In case of delivery not being effected within expiration of an adequately accorded extension of time, the buyer may treat the contract as terminated or shall be entitled to claim compensation instead of performance.
- 10. Information, advice and recommendation**
- 10.1. In the event our company shall provide information concerning processing as well as application possibilities or other specifications (e. g. with regard to patent rights) or in case of providing technical advice or recommendation, this occurs in all conscience but without engagement. Such information, advice or recommendation shall not disengage the buyer from processing tests and trials. In this respect, claims for compensation shall not be enforced to us.
- 11. Retention of title**
- 11.1. We reserve title to delivery until it has been fully paid (goods subject to retention of title).
- 11.2. The buyer shall be entitled to resale goods subject to retention of title according to his usual conditions within the ordinary course of business, as long as he is not in default; however, he may neither pledge nor assign the goods subject to retention of title by way of security.
- 11.3. By now, the buyer shall assign the claim arising out of sale of goods subject to retention of title; we shall hereby accept this assignment in advance.
- 11.4. Regardless of the assignment of debts and our right of collection of a claim, the buyer shall be entitled, until revoked, to collect on behalf of AKRO amounts receivable from resale of goods subject to retention of title. We shall be entitled to revoke the buyers' collection right with immediate effect, should he fail to meet his obligations arising out of the present terms and conditions or in case that we experience circumstances, materially diminishing the buyers' creditworthiness (e. g. request for opening and insolvency proceedings, default, etc.). In the event that preconditions are available concerning execution of the right of withdrawal, the buyer shall, at our request, advise debtors' names owing amounts assigned to us as well as all necessary indications regarding assignment, providing us the belonging documents and disclose assignment of debts to the debtors. We, ourselves shall be even entitled to present the receivables assigned to the debtors.
- 11.5. The buyer shall carry out processing of goods subject to retention of title on behalf of our company, being manufacturer in terms of § 950 BGB, without any obligations emerging to us in this respect. Should the goods, subject to retention of title, be processed, mixed or combined together with objects not belonging to our company, we shall acquire a joint title to the new items at the rate of the value of the goods, subject to retention of title to the other products, being processed at the time of processing. The buyer shall be determined to keep the goods free of charge for us at his premises.
- 11.6. Should the goods, subject to retention of title, be mixed or combined with objects not belonging to our company, we shall acquire a joint title to the new items at the rate of the value of the goods, subject to retention of title to the other merchandises at the time of mixing or combination. Should the buyer acquire ownership of the new items, due to the fact that the objects belonging to him shall be regarded as main issue, the contractual partners agree on the fact that seller shall obtain co-ownership with regard to the new items at the rate of the value of the processed or respectively combined or mixed goods, subject to retention of title. The buyer shall be determined to keep the goods free of charge for us at his premises. In the event, that co-ownership shall not be possible at this time, the buyer shall be obliged to proportionally grant us co-ownership, immediately after having created the new items.
- 11.7. In the event, that the goods, subject to retention of title will be resold, in combination with other merchandises, not considering whether without or after processing or mixing, the assignment in advance of § 11.3 shall apply but solely amounting to the value of goods, subject to retention of title, being commonly resold with the other merchandises.
- 11.8. Provided we shall be entitled to dispose of the goods, subject to retention of title, this can be effected without holding on.
- 11.9. We shall be obliged to release the securities, being entitled to us according to the preceding clauses at our option when required by buyer as the value exceeds the claims being secured by 10 %.
- 11.10. We shall be immediately informed about legal enforcement measures of third persons with regard to goods, subject to retention of title or claims assigned in advance by indication of documents, being necessary for intervention. The buyer shall be obliged to reimburse the costs for successful intervention, provided the third person is not capable of reimbursing to us the costs incurred. We shall be either informed about other negative impacts of goods, subject to retention of title caused by third persons.
- 11.11. Should the agreement, subject to retention of title, according to the preceding conditions not be accepted in the country the goods shall be contractually shipped to, the buyer shall be obliged to grant us equal security in order to secure our claims and provide the necessary explanation for this purpose.
- 12. Labeling of manufacturer**
- 12.1. Various goods supplied by our company are labeled (e. g. trademark or company) with a sign of manufacturer. In case of processing those goods, the use of labels in connection with the goods processed in this respect, shall solely deemed to be authorized upon written agreement of manufacturer. This shall be deemed binding for all processing sectors. Besides fulfillment of legal labeling formalities, this agreement especially assumes authorization of process by manufacturer. The buyer shall be responsible for obtaining manufacturers' acceptance.
- 13. Limitation of liability**
- 13.1. We shall be deemed liable for claims in case of deliberate acts or culpable negligence of our legal representatives or assistants as well as in case of slight negligence of essential contractual obligations. In the event of negligent breach of duty, our liability for damages shall be deemed limited to the predictable, typically occurring damage. Beyond breach of essential contractual obligations, liability shall be deemed excluded in case of slight negligence.
- 13.2. The preceding limitations of liability shall not apply for damages resulting from loss of life, bodily injury or damage to health.
- 13.3. Liability for claims beyond those terms enlisted in § 13.1 and 13.2 of the General Conditions of Sale shall be excluded irrespectively any legal reason. This shall also apply for personal liability in case of claims of staff, employees, representatives and agents.
- 13.4. Our liability due to stringent determinations of Product Liability Act shall not be affected.
- 14. Applicable Law, Place of Jurisdiction**
- 14.1. Place of delivery shall be the respective place of lading; place of payment shall exclusively be the registered office of the company.
- 14.2. German law exclusively applies.
- 14.3. Regulation of consistent law do not apply with regard to international sales of goods and chattels (EKG = einheitliches Gesetz über den internationalen Kauf beweglicher Sachen), consistent law concerning conclusion o finternational agreements for sales of goods and chattels (EAG = Abschluss von internationalen Kaufverträgen über bewegliche Sachen) and the law as regards agreement of United Nations of 11 April 1980 with regard to contracts of international sale of goods (United Convention for the International Sale of Goods = UN Kaufrecht).
- 14.4. For merchants, entities of public law and public separate district court, the registered office of the company exclusively applies as place of jurisdiction. This even applies for claims resulting from checks and drafts.
- 14.5. Should any provision of this agreement or part thereof be or become invalid or unenforceable, the remaining provisions shall continue to be valid. In the place of the invalid or unenforceable provision, a valid or enforceable provision shall apply which the parties would have chosen in order to achieve the commercial effect of the provision to be replaced if they had foreseen and considered the invalidity or unenforceability. This shall also apply for the case; these General Conditions of Sale contain a gap.