

General Terms and Conditions of Sale from Dr. Otto Suwelack Nachf. GmbH & Co. KG

1. Scope of Validity

The sale and delivery are based exclusively on the conditions given below. They shall apply also for all future transactions, even if we fail to refer to them in individual cases. Alterations and amendments of the contract as well as collateral agreements require our written consent to be valid. The waiver of this written form requirement shall also require the written form. General terms and conditions of the buyer will not become part of the contract, even if we fail to object expressly.

2. Prices

The prices are given in Euros and apply ex works and/or ex stock unless otherwise agreed. The prices do not include VAT at the legally valid rate. It has to be paid separately.

Should we not receive the energy and/or raw materials required for production at the prices agreed with the supplier, which were used as a basis for pricing when the contract was concluded with you, we reserve the right to adjust the product contract price with the buyer (explaining the reason for and scope of the increase) accordingly. Reasons for this may be, in particular, changes in the legal basis or similar, which are not within Dr. Suwelack's area of responsibility. In this case, the purchaser is entitled to terminate the contract if the price increase exceeds the reasonable scope.

3. Payments

All payments are to be made to us net cash without deduction free of charge immediately after delivery and invoicing. Bills and checks are accepted only on account of payment. Discount, bill charges and other expenses are to be paid by the buyer. Our invoices are regarded as accepted if not objected in writing within 30 days after the invoice date. We will inform the buyer about this with each invoice. The assertion of any rights of retention by the buyer from former or other transactions of the current business relationship is excluded. Set-off against counterclaims is admissible only insofar as these have been accepted by us and are due for payment or have been declared legally effective. In case of obvious financial difficulties of the buyer, in particular also in case of delays in payment, protested cheques or bills of exchange, cessation of payment, filing of an application for opening of insolvency proceedings, we are entitled to demand immediate payment of all open, also deferred, invoice amounts and to claim cash payment or security against return of bills of exchange accepted in lieu of payment and to execute further deliveries against prepayment only. Only if the buyer inculpably defaults, we shall not be entitled to claim immediate payment of the outstanding debts.

4. Specifications by the Buyer

If the buyer specifies the use of packaging material and/or product marketings on packaging materials, the buyer is responsible for the compliance of the packaging materials with the applicable food industry law. In addition, the buyer is responsible in this case for the accuracy and completeness of the product marketing content (e.g. as regard declaration duties). We undertake to make available to the buyer all product-specific information (e.g. allergen data). If the buyer provides product, the buyer is responsible for the compliance with the food law.

5. Delivery

The merchandise is transposed at the buyer's risk and on his account, even if we use our own means of transportation. If delivery is impossible or delayed for us or the forwarding agent through no fault of ours, the risk of the destruction or deterioration of the goods will pass to the buyer with the receipt of the notification of readiness for dispatch. Insurances are only agreed on the basis of the buyer's requirements and costs. Partial deliveries are allowable. The delivery time is based on the agreements between the buyer and us. Their observance by us requires that all commercial and technical questions have been clarified and that the buyer has fulfilled all duties incumbent on him. If this is not the case, the term of delivery is extended accordingly. This provision will not apply to the extent that we are responsible for the delay. We do not assume any liability for the impossibility of the delivery or for delivery delays as far as these are caused by force majeure or other events which are not foreseeable at the time the contract was concluded (e.g. any kind of interruption of operations, difficulties in the procurement of materials or power, transport delays, strikes, legal lockouts, labour shortage, energy or raw material shortage, difficulties in obtaining the necessary official authorisations, official measures or the non-delivery or non-timely delivery by suppliers for which we are not responsible). We are entitled to withdraw from the contract as far as such events make the delivery or performance significantly more difficult or impossible for us and the hindrance is not only of a temporary nature. For those hindrances which are of a temporary nature, the delivery and/or performance deadlines are extended or postponed by the period of the hindrance plus a reasonable start-up period. As far as it cannot reasonably be expected of the Buyer to except the delivery or performance as a result of the delay, he may withdraw from the contract by sending us a written declaration without delay.

6. Warranty

The buyer is obliged to inspect the supplied goods for obvious defects which would be conspicuous to an average customer without further measures. Obvious defects also include substantial, easily visible damage to the goods. Furthermore, this includes cases where another matter or an insufficient quantity was supplied. Such obvious defects have to be complained with us immediately in writing within one week after the delivery date at the latest. Non-obvious defects which are detected at a later date, have to be complained in writing with us within one week after the detection. In the case of a violation of the duty of examination and reproof the guarantee expires with respect to the failure in question. Warranties have to be described expressly as such. A reference to commercially available quality descriptions and samples will not constitute a warranty claim. Insofar as a defect in the delivered goods is established, we shall be entitled at our option either to remedy the defect by carrying out a repair or by supplying a new product. Where the defect is remedied, we shall be obliged to bear all the necessary costs for the remedying of the defect, in particular transport, labour, travel and material costs, provided that such costs are not increased by the additional cost of taking the object of sale to another location other than the place of performance. If we fail to remedy the defect, the buyer has the right, at his own discretion, to withdraw from the contract or to demand an appropriate reduction in the purchase price. Any claims of the buyer resulting from the delivery of defective parts become time-barred one year after the beginning of the statutory period of limitation. Claims of indemnity for intent remain unaffected. Any replacement deliveries or rectification of defects shall not result in a restart of the statutory period of limitation. The verification of the usability of the merchandise for the purpose intended by the buyer and the observance of the legal regulations applying for it, in particular the food and identification law, is the sole duty of the buyer.

7. Limitation on Liability

We exclude our liability for slight negligent breaches of duty, insofar as these do not affect essential contractual duties or warranties, cause damages arising from injury to life, body or health or where claims according to the product liability law are affected. The same applies for breaches of duty by our vicarious agents. The above provisions apply for any damage whatsoever, also for damage within the scope of rectification of defects, for default damages, etc. An essential contractual obligation applies, if the breach of obligation refers to an obligation which fulfilment the customer has counted on and also could have counted on. Our liability due to justified claims of the buyer from a delivery of defective goods is limited to such cases which are covered by the coverage and insured sum as defined in our manufacturer's and product liability insurance.

8. Reservation of Title

The supplied merchandise shall remain our property as goods subject to retention until payment of the purchase price and settlement of all and any claims resulting from the business relationship and the claims developing in connection with the object of purchase. If a bill of exchange liability is incurred by the Buyer in the context of the payment of the purchase price, the retention of ownership shall not expire before the Customer honours the bill of exchange as drawee. The processing or treatment of the reserved property shall be effected for us as manufacturers within the meaning of Clause 950 BGB (German Civil Code) without putting us under any obligation whatsoever. The new item resulting from the working shall be regarded as a reserved product to

the specified extent according to these provisions. Where goods are processed or combined with goods which are not our property, we shall be entitled to co-ownership in the good created in proportion to the value of our goods and the third-party goods being used. The new matter is not to be considered as the main object in the sense of § 947 Para. 2 BGB. For current invoices the retention of title is valid as assurance for the invoice balance against the buyer. The buyer may sell our property - also the goods created by the combination, processing or reprocessing - only in usual business transactions under his normal general terms and conditions. The buyer is only entitled to resell the goods if it is guaranteed that the claims resulting from it including all additional rights in the amount of the goods subject to retention, are transferred to us. The buyer shall not be entitled to make other dispositions, in particular to any transfer of ownership by way of security or pledging. Already now, the buyer's claims from a resale of the reserved goods, also within the scope of contracts for work or contracts for work and materials, or claims against third parties to which he is entitled for other legal cause in law, are collectively assigned to us. If the buyer sells the reserved goods alone or with other goods not owned by us, the buyer already now assigns to us the claims accruing from the resale in the amount of the value of the reserved goods together with all ancillary rights and priority over the rest; we accept the assignment. The value of the reserved goods is the sum resulting from our invoice plus a security of 10%, which is cancelled, if it is adverse to third parties' rights. If we are the co-owner of the resold goods, the assignment of the claims applies to the value of our prorated co-ownership. The assignment in advance also extends to a balance claim. We entitle the buyer, subject to revocation, to the collection of the claims assigned in accordance with the above provisions. We will not avail of our own right of collection as long as the buyer meets his payment obligations, even towards third parties. Upon our request, the buyer shall notify us of the debtor of the assigned claims and notify such debtors of the assignment; we are entitled to inform the debtors about the assignment ourselves. If the reserved goods or assigned claims become involved in recovery actions by third parties, the buyer must inform us immediately and supply the necessary documents to allow us to intervene. If and when the buyer defaults on payments, files a petition for or opens insolvency proceedings on the buyer's assets, the buyer's right to resale and use and the authorization to collect any assigned claims automatically is no longer valid; the direct debit mandate concerning bill protests or non-payment of a cheque are also forfeit. If the value of the securities offered exceeds the claims by more than 20%, we shall be obliged in our reasonable discretion to reassign or release the securities. For the assessment of the securities for the reserved goods supplied by us, our invoice value and for the claims assigned for security, the value of the assigned claim are applied.

9. Special right of Termination

Due to the currently unforeseeable possibility of a restriction or interruption of the energy supply of the manufacturing industry in Germany, the contracting parties agree on this special right of termination: If our energy supply at our production location in Billerbeck/Germany at the time of the scheduled production of the contractual goods is more than insignificantly restricted by a government order of an energy rationing or a energy supply stop, we shall be entitled to terminate this contract without notice. The same applies if, due to the situation described above, our suppliers are unable to provide services which are essential for the production of contractual goods (raw materials, packaging, technology, etc.). As a result of the termination, we shall be released from all performance and delivery obligations. In the event of such termination, the buyer shall not be entitled to claim damages (e.g. for lost profit or for the additional costs of an alternative procurement).

10. Place of Performance, Court of Jurisdiction, Applicable Law

Place of performance for us and the buyer is Billerbeck. In the event that the buyer is a merchant, the exclusive court of jurisdiction for any claims of the contractual parties, also for actions on bills and on checks, is Münster (Westphalia). The law of the Federal Republic of Germany under exclusion of the UN sales law applies exclusively.

Dezember 2022