

General Terms and Conditions of Sale of Cognis GmbH

1. Area of Applicability

Deliveries of the seller shall only take place according to the following sales conditions. Agreements or business terms and conditions of the purchaser which deviate from these terms and conditions shall require the express written approval of the seller to the extent they conflict with these terms and conditions in order to be effective.

The sales terms and conditions of the seller shall become a component of the contract at the latest with the acceptance of the delivery.

2. Contract

- 2.1 The offers of the seller shall not be binding. Delivery conditions of the purchaser shall only be effective if they are confirmed by the seller in writing.
- 2.2 The price in force on the day of delivery plus the taxes to be openly shown in the invoices shall be considered as agreed upon. Price lists presented shall be subject matter of the contract so far as they do not conflict with the general terms and conditions of sale and/or the separate agreements.

3. Duties of the Purchaser

- 3.1 If the purchaser fails to accept the delivery, the seller shall be entitled, after fixing a reasonable grace period, to rescind the contract and/or to claim damages in lieu of performance. In the latter case the seller is entitled to claim, unless the purchaser is able to prove that actual damage was lower, either 10 % of the agreed invoice amount pursuant to clause 2.2 or compensation of the actual damage suffered.
- 3.2 The delivered goods may only be sold unchanged in the original packaging.

4. Payment

- 4.1 The invoiced amounts shall be paid by means of a bank debit entry or pursuant to the conditions of the seller in the confirmation of the order or in the invoice. Payment periods named in the confirmation of the order and/or in the invoice in particular also for the time-limit calculation with respect to the discount deductions, shall begin with the invoice date. Discount deductions agreed upon shall only be permissible if no other invoices which are already due are to be paid.
- 4.2 In the case of default in payment, the seller shall be entitled to claim interest in the amount of 8% over the relevant base interest rate of the European Central Bank. Default interest shall be due at once.
- 4.3 The purchaser may only withhold or make a set-off with those claims which are undisputed or non-appealably assessed.
- 4.4 Irrespective of the agreed method of payment, the rendering of security may also be requested at any time prior to the completed delivery in the case that after the conclusion of the contract reasonable doubt arises regarding the solvency or the creditworthiness of the purchaser, agreed payment and delivery terms are not adhered to in material respects or material changes in the business circumstances of the purchaser occur. In case the purchaser refuses to render security within a reasonable period granted to him for this purpose, the seller may rescind completely or partially any contracts concluded with the purchaser. All other rights are reserved.
- 4.5 Employees of the seller shall only be entitled to collect due payments upon presentation of a special permit.

5. Delivery

- 5.1 In the absence of special instruction from the purchaser, the selection of the route of transport shall be made by seller in his discretion after a due assessment of the circumstances.

The connection charges for tank wagons, cartage at the place of destination, any agreed freight charges and supplementary freight charges for express goods and air freight shall in each case be borne by the purchaser.

Freight reimbursements with respect to self-pick up by the purchaser shall be calculated according to the freight rates most favourable at the time to the seller.

- 5.2 For the determination of the weight of the delivery, the weight determined at the time of dispatch from the seller's works

or warehouse shall be determinative.

- 5.3 The agreed delivery time shall begin with the sending of the confirmation of the order, however, not prior to the production of the documents, authorisations and releases to be furnished by the purchaser. If an agreed delivery date is exceeded by more than two weeks, the purchaser shall be entitled to set a grace period for the seller of two additional weeks with threat of rejection after that date. If the delivery obligation has not been fulfilled by the time the grace period expires, then the purchaser shall have the right to rescind the contract. The rescission must be declared in writing without undue delay after the expiration of the set grace period, at the latest within two weeks after the expiration of this time limit.

Occurrences beyond the seller's control, through which the delivery or its transport is impossible or unreasonably difficult, shall give the seller the right to rescind the contract or to delay the delivery until the hindrances are removed. These circumstances shall be communicated to the purchaser by the seller without undue delay. Partial deliveries which have already been made shall be considered as an independent transaction; the settlement of the partial delivery may not be refused on account of the parts still outstanding. In the event of the postponement of the delivery due to the reasons mentioned above, a right of the purchaser to set a grace period and to rescind does not arise.

6. Passing of the Risk

The risk shall pass - if nothing otherwise is agreed - at the time of dispatching the goods from the seller's works or warehouse. The purchaser shall bear the risk for all deliveries sent back during the return transport as well as for the packing during the transport there and back.

7. Warranty and Liability

- 7.1 Obvious defects shall be notified to the seller without undue delay, at the latest within eight days after receipt of the delivery at the place of destination. At the same time a sample of the faulty goods shall be sent to the seller. If at the place of dispatch samples were taken by an impartial sample-taker, then these alone shall be authoritative for the appraisal of the delivery. Samples taken by an impartial sample-taker are deemed equivalent to samples still remaining with the purchaser from the seller's original delivery which was the basis for processing or further shipment. The same also applies to parts remaining with the seller from the production batch which was the origin of the delivery objected to.
- 7.2 The agreement on characteristics made between purchaser and seller exhaustively describes the characteristics of the delivery.
- 7.3 Claims based on warranted characteristics or warranted durability are admissible only if such warranty was confirmed by the seller in writing.
- 7.4 In the event of defective delivery or breach of another contractual duty, liability is excluded if the breach is not of a fundamental contractual duty and the seller proves that neither he nor his management executives are guilty of intent or gross negligence and that no other agent or employee has deliberately caused the breach of duty. With regard to claims not founded in the contract (e.g. based on tort), all liability is excluded, unless the Purchaser proves that the Seller is guilty of intent or gross negligence. All claims for damages of the purchaser remaining thereafter shall be limited to the typical foreseeable damage. This does not affect liability under the Product Liability Act. The aforesaid exclusions and limitations also do not apply in the event of harm to life, physical injury or harm to health.
- 7.5 To the extent to which the liability of the seller is excluded or limited, this shall apply equally in favour of his employees in the event that the purchaser brings a claim directly against them.
- 7.6 The acceptance of the delivery without reservations on the part of the railroad, shipping company or other carrier shall preclude the liability of the seller due to improper packing or loading as far as the seller has no mandatory liability by reason of intent or gross negligence.
- 7.7 To the extent an EAN code is used the seller shall take care of the legibility. Liability for the legibility cannot, however, be assumed on the part of the seller.
- 7.8 The seller's oral and written advice in application techniques shall be given without any obligations and shall not release the purchaser from his own examination of the products for their suitability. The foregoing shall also apply when the delivered goods are generally recommended for a specific purpose. If liability of the seller should nevertheless come into question, the procedure of the stipulated liability for defective deliveries shall apply *mutatis mutandis*. It shall be incumbent on the purchaser alone to observe any proprietary rights of third parties. e.g. application patents, and statutory provisions with respect to the processing of the delivery.
- 7.9 All claims of the purchaser based on defects become statute-barred one year from the date of delivery, unless longer periods are mandatorily prescribed by statute, in particular for goods that were used in accordance with their normal purpose for a building structure and which have caused its defective nature.

8. Retention of Ownership

- 8.1 The delivered goods shall remain the property of the seller until all outstanding claims arising from the business relations including interest and costs have been fully settled or until cheques which have been given for this purpose have been fully honoured. The seller shall be entitled to assert the retention of ownership through a simple declaration. The retention of ownership shall also extend to goods which are resold and to products emerging through processing. With respect to combination or mixture with material which does not belong to the seller, the seller shall without exception acquire co-ownership in the manufactured new items in the ratio of the value of the reserved-title product to the value of the new item. In this case the purchaser shall be considered in this respect as the custodian for the seller. If with respect to a combination of several items the seller does not acquire co-ownership, then the purchaser shall already now assign the co-ownership share specified under sentence 4 to the seller.
- 8.2 The purchaser shall be revocably entitled to sell the delivered goods in the proper course of business. Each other disposal, in particular a pledging, chattel mortgage or relinquishment by means of exchange, shall not be allowed. The seller shall be notified without undue delay regarding attachments undertaken by third parties - also after mixture or processing - as well as each other impairment of the rights in the delivery which is the property of the seller. The claims and rights of the purchaser from a resale of the delivered goods and business relations to other buyers shall already now be assigned to the seller, regardless of whether the goods are resold, unprocessed or processed. In case the goods shall be sold by the purchaser together with other goods which are not the seller's property, the assignment of the purchasing price shall only be valid for the value of the delivery.
- 8.3 The purchaser shall be revocably empowered to collect all debts out of the resale of the delivery. The collection power and the right to process shall also extinguish without particular revocation when the purchaser stops his payments, in the event described in clause 4.4, a cheque or draft protest or an executed attachment. Assigned outstanding amounts thereafter received shall be accumulated at once in a special account with the separate designation to be given by the seller. Upon request of the seller, the purchaser shall inform the seller of the debtor of the assigned claim in writing without undue delay and notify the assignment to the debtor. The seller agrees to release according to his choice the security given to him, upon request of the purchaser so far as the realisable value exceeds by 20 % the relevant total claim of the seller to be secured.
- 8.4 If the purchaser should default on his payment obligation to the seller or if he violates one of the duties resulting out of the agreed retention of ownership, then the entire remaining debt shall become due at once. In these cases, save as provided in § 107 paragraph 2 Insolvency Act (Insolvenzordnung), the seller shall be entitled to demand the return of the delivery and to pick it up from the purchaser. The purchaser shall not have any right to possession. The seller shall be entitled to inform the purchaser's customers of the assignment of the purchaser's accounts receivable to the seller and to collect the accounts receivable. A possible taking back of goods will only be effected for reasons of security and shall not be interpreted as withdrawal from the contract, even if instalment payments have subsequently been allowed.

9. Returnable Packaging/Pallets

- 9.1 To the extent an agreement is concluded regarding the delivery of the goods on pallets, the seller may deliver at his choice parcels of goods on Euro-Pool-Pallets measuring 800 x 1200 mm or on non-returnable EW-10 pallets. Delivery shall only take place against counter-exchange, i.e. for the pallets delivered with the products, the same number of undamaged, empty pallets (in each case only Euro-Pool-Pallets) must be furnished in exchange. Damaged but repairable Euro-Pool pallets which seller receives back shall be invoiced at the repair cost, and pallets which are not repairable shall be invoiced at replacement cost, unless the purchaser can prove that he is not responsible for their damage. With respect to lost pallets, the purchaser shall be obliged to provide replacement or to pay the replacement costs to the seller, unless he can prove that he is not responsible for their loss. In case delivery takes place on EW-10 non-returnable pallets the purchaser shall be obliged to transfer the products from one pallet to another and to dispose of the non-returnable pallets.
- 9.2 As far as half-size or quarter-size Eurodisplay pallets are used, these are CHEP-pallets which remain at the purchaser and will be picked up by CHEP.
- 9.3 For other returnable packing materials or loading devices furnished by the seller, the following conditions shall apply: The returnable packing furnished by the seller (identified as such in the invoice) as well as any loading devices shall remain the inalienable property of the seller. They shall be treated with care and may not be used for purposes other than the storage of the delivered products. The purchaser shall be liable for damage which results from the non-observance of these conditions, unless he can prove that he is not responsible for their damage.

Returnable packing material and loading devices shall be returned to the indicated or agreed receiving office for empties carriage paid and in proper, usable condition immediately after being emptied quoting the department named in the invoice.

A return period of at the most eight weeks after delivery shall apply for returnable barrels, for containers and stacking tanks as well as for other returnable packing material and loading devices.

If returnable packing and/or loading devices are not returned on time or become unusable through non-observance of the wishes of the seller, the seller reserves the right to invoice them at the current price for brand-new packing material of the same type or to claim rental charges. These amounts shall be due at once. The account for empties shall be credited after receipt of the empties.

Loading into tank wagons of the seller can only take place to the extent that such are available. The purchaser shall be obliged to properly empty and treat the wagons immediately after arrival, as well as to send them back, in the absence of special instructions from the seller, to the shipping point siding prepaid under the specification of the department mentioned in the invoice. For the calculation of the tank wagon rental, either the official railroad rates for demurrage or the customary rental charges for tank wagons shall be taken as a basis.

- 9.4 The taking back of packing material which is not expressly characterised in the invoices as returnable packing shall conform to the Packing Material Regulation (Verpackungsverordnung) in its current version as well as, if applicable, any additional agreements or arrangements made.

10. Concluding Provisions

- 10.1 If individual provisions of these delivery conditions or of this delivery transaction are or become void, then the effectiveness of the other provisions shall not be affected thereby. The contract parties shall be obliged to agree on a new provision which comes closest to the purpose intended by the void provision.
- 10.2 Place of performance for all obligations arising out of a delivery transaction and venue for all disputes in connection with a delivery transaction and/or a summary procedure where the plaintiff relies entirely on documentary evidence shall be exclusively Düsseldorf, Germany as far as nothing else is agreed.
- 10.3 The relations between the seller and the purchaser shall be subject exclusively to the law of the Federal Republic of Germany. Application of the UN Convention on Contracts for the International Sale of Goods is excluded.