



Rühl
PUROMER GmbH, Postfach 14 29, 61365 Friedrichsdorf

Rühl Puromer GmbH General Terms of Delivery and Sale (as of May 2020)

§ 1 General, Application of GTDS

- These General Terms of Delivery and Sale (GTDS) apply to all business relations between Rühl Puromer GmbH as seller ("Seller") and an entrepreneur in the sense of § 14 of the German Civil Code ("BGB"), a legal entity under public law or a public-law special fund as buyer ("Buyer"), unless individual agreements (§ 305b BGB) have been entered into in particular cases, which take precedence over these GTDS in any event.
- Our GTDS apply exclusively. Diverging, contradicting or supplementary general terms and conditions (GTC) of Buyer require the explicit approval of Seller. This also applies if we carry out deliveries without reservation despite our knowledge of Buyer's GTC.
- Any legally relevant statements or notices that have to be made by Buyer towards Seller after contract conclusion have to be made in written form to be valid.
- This English translation of our German Allgemeine Verkaufs- und Lieferungsbedingungen (AVLB) is made for convenience only. In case of contradictions between this English translation and the German AVLB, the latter shall take precedence.

§ 2 Offer and Acceptance

- Statements of Seller designated as "offers" are non-binding and shall be deemed to be invitations to Buyer to submit a binding offer on the basis of these GTDS. Orders for goods submitted by Buyer are also deemed to be binding offers on the basis of these GTDS.
- Clauses supplementing product descriptions, such as "circa", "as already delivered", "as before" or similar additions in our statements solely refer to the quality and/or quantity of goods, but not to the price.
- The acceptance by Seller may be made in writing, by facsimile and/or email (e.g. as order confirmation) or impliedly by delivery of the goods to Buyer. In case the order confirmation deviates from the offer or order submitted by Buyer, the order confirmation is deemed to be a new "offer" of Seller in the sense of § 2 a).
- Indications of quantities shall always be deemed to be approximate. Safety-related and filling-related deviations of 10% below or above such indications shall be deemed to be in accordance with the contract. Such deviations will be considered in the respective invoice.

§ 3 Quality of Goods, Technical Advice, Support, Guarantees

- Seller gives advice and renders other support always to the best of its knowledge. Buyer assumes sole responsibility for its production processes. Especially, information given by Seller on the suitability and use of goods do not relieve Buyer from its obligation to conduct its own examinations and tests. Seller is not able to control the application, use and processing of goods. Buyer has to examine whether the goods are suitable for the intended use. Unless a specific promise is explicitly made by Seller with regard to characteristics, application, use or processing of goods, the use of the goods is the sole responsibility of Buyer.
- The agreed quality of goods arises out of the specifications made in the order confirmation. Apart from that, unless agreed otherwise, only the specifications made with regard to „General data“ and „Reactivity performances“ in the applicable „Technical Information“ are deemed to be agreements on the quality of goods, provided that the instructions given as „Storage guidelines“ and „Transport guidelines“ are complied with. Other information (especially regarding „Processing guidelines“ and „Mechanical properties“) as well as information in other documentation of Seller (e.g. safety data sheets, inspection certificates etc.) do not form part of the contract, unless separately and explicitly agreed. The same applies to types of use identified for the goods in the European Chemicals Regulation REACH.
- Characteristics of models or samples provided to Buyer will only form part of the contract if they are explicitly agreed upon as quality of the goods.

§ 4 Delivery

- Unless other INCOTERMS are agreed upon individually, deliveries will be made ex works (EXW). The INCOTERMS as in force at the date of contract conclusion shall apply.
- The delivery dates are indicated on the basis of the available information to the best of Seller's knowledge and are binding only if this is explicitly agreed or declared by Seller.
- In case of a delay of delivery, Buyer shall grant Seller an adequate grace period. If such grace period has expired, Buyer may withdraw from the respective contract and claim compensation for the damage suffered in accordance with applicable statutory provisions and subject to these GTDS.
- In the event Seller is not able to comply with binding delivery dates for reasons not attributable to Seller, Seller shall immediately inform Buyer and designate an expected new delivery date. Seller shall not be accountable for the late delivery by its sub-suppliers if Seller has chosen them with the necessary diligence. If the delivery cannot be carried out on or before the new delivery date, both parties have the right to partly or completely withdraw from the respective contract. In this case, advance payments already made by Buyer will be reimbursed.
- In case of delivery of goods in fuel trucks or donning tanks, Buyer or the recipient has to ensure the proper technical condition of its tanks or other storage containers and shall be responsible to arrange for the connection of the filling hoses to its storage system.
- Unless agreed otherwise, Seller has the right to determine the type of shipment (especially transport route, transportation company and packaging). Additional costs caused by special transport requirements of Buyer have to be borne by Buyer. The same applies to transportation costs as increased after contract conclusion, unless freight-paid delivery has been agreed.

§ 5 Acts of God, Contract Obstacles

Acts of God (e.g. natural disasters, war, labour disputes, lack of raw material or energy, public legal regulations, fire and explosion), the occurrence of which lie beyond Seller's influence, entitle Seller to withdraw from a contract, if they make the fulfilment of contractual obligations impossible. In these cases, the payment of damages for delay or non-fulfilment of the contract is excluded. This also applies, if deliveries to Seller by its own sub-suppliers are made impossible by the circumstances mentioned above.

§ 6 Purchase Price, Invoicing, Payment, Default of Payment, Right to Retention or Refuse

- The prices for Seller's goods are subject to price fluctuations which may be caused, inter alia, by changing prices for raw material. Thus, in case of repeated orders of the same goods, different prices may apply. The prices designated in the respective order confirmation shall apply. If prices are not designated in the order confirmation or if a written order confirmation has not been issued, the current prices at the date of contract conclusion shall apply according to the respective invoice, unless agreed otherwise.
- The calculation of prices occurs on the basis of the quantity and weight determined by Seller or by Seller's supply plant.
- Unless agreed otherwise or otherwise determined in the respective invoice, the invoice amount shall be due immediately with receipt of the invoice and payable without any deductions within eight (8) days from the date of invoice.
- Payments shall only be deemed to have been made when the invoice amount is irrevocably credited to Seller's account for Seller's sole disposal.
- We reserve the right to charge interest for late payment according to the applicable statutory provisions (currently 9 percentage points above the base lending rate under § 288 para 2 BGB). In case goods or services are invoiced in another currency, the default interest shall be 9 percentage points above the current discount rate of the central bank of the country the currency of which has been used for the respective invoice. In addition, we reserve the right to claim further damages resulting from late payment.
- Against Seller's payment claims, Buyer may only offset uncontested claims or claims awarded by a final and non-appealable judgement as well as claims arising from the same contractual relationship (coherent/related claims). A right of retention of Buyer is excluded, unless it arises from the same contractual relationship or is based on uncontested claims or claims awarded by a final and non-appealable judgement.
- Seller reserves the right to apply payments without redemption terms to the oldest accounting position, including related interest and costs in the following order: costs, interest, principal claim.
- In case Buyer does not settle an invoice despite of Seller's reminder within a reasonable period of time as determined by Seller, Seller has the right to hold back further deliverables or services until payment of the overdue invoice has been made. In addition, Seller is entitled to the statutory claims.
- Seller may invoice its deliveries and services electronically; Buyer agrees to the receipt of electronic invoices by way of email. Should Buyer require a hardcopy invoice per regular mail, Seller reserves to claim a processing fee of 2.50 EUR per invoice.



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§ 7 Packaging

- a) The affixed marks must not be removed.
- b) In case of a delivery in one-way packaging within Germany, Buyer bears costs and responsibility for the transport to the disposal point. The disposal point is the address designated by Seller or the disposal services company.

§ 8 Retention of Title

- a) Simple Retention of Title:
Seller retains title to the delivered goods until the purchase price has been paid in full.
- b) Extended Retention of Title (other payment obligations):
In case Buyer has other payment obligations towards Seller from the business relationship, Seller retains title to the delivered goods until any and all payment obligations have been settled, even if Buyer has paid for the delivered goods.
- c) Processing Clause, Combination and Commingling:
If new goods emerge from the processing by Buyer of goods delivered by Seller, Seller acquires immediate title to the new goods. In case Seller's goods are processed together with other materials, Seller acquires co-ownership over the new goods in proportion of the gross invoice value of the goods delivered by Seller to the value of the other materials and the value of the processing. This applies accordingly in case of an inseparable combination or commingling of Seller's goods with other goods. Insofar as Seller acquires title or co-ownership, Buyer shall keep them safe for the Seller with the diligence of a prudent business man.
- d) Extended Retention of Title (re-sale of goods):
Buyer is entitled to re-sell the goods delivered under retention of title in the ordinary course of business. As security, Buyer hereby assigns to Seller the claims towards its customers from the re-sale of goods delivered under retention of title up to the gross invoice value of the respective goods. Seller hereby accepts the assignment. The assignment shall be valid whether the goods are re-sold without or after processing. Buyer remains entitled to collect claims after the assignment. Buyer will transfer payments made on the assigned claims to Seller up to the value of the secured claims. Seller has the right to revoke Buyer's collection authority in case of payment default, suspension of payment, opening of insolvency proceedings or in case of justified indications of over-indebtedness or impending insolvency. After prior warning giving an adequate deadline, Seller may reveal the assignment for security or request Buyer to reveal it to its customers and collect the assigned claims.
- e) Partial Waiver:
Seller is obliged to release the securities at Buyer's request, insofar as their value exceeds the value of the secured claims by more than 10%.
- f) Right to Information:
At Seller's request, Buyer shall provide all necessary information on the stock of goods under Seller's ownership and on the assigned claims as well as (where applicable) any documents required for the assertion of claims. Further, Seller has the right to request Buyer to mark the goods as Seller's property.

§ 9 Inspection and Reporting Obligations, Warranty Claims

- a) Inspection Obligation:
Buyer has to inspect the goods and their packaging immediately after delivery. In case of partial delivery, Buyer has to additionally examine the labelling of every package. In case of delivery by fuel trucks or tanks, that will not remain with Buyer, Buyer must examine the accompanying public-law shipping documents. Apart from that, Buyer has to take samples before the discharge to verify that the goods have the agreed quality.
- b) Reporting Obligation:
Buyer has to report evident defects to Seller immediately, at the latest within three (3) business days after delivery, in writing and by clearly indicating the defect. Defects that are detectable at a proper inspection, have to be reported within a deviating term of one (1) week after delivery. Hidden defects have to be reported within one (1) week after their detection. The report has to be made in written form. The timely dispatch of the report is sufficient. If the Buyer fails to submit the report in the required form or within the required period of time, the goods shall be deemed accepted.
- c) Buyer's Warranty Claims:
 - I. In case the delivered goods have defects and if Buyer has inspected the goods as provided for by § 9 a) and reported the defects in accordance with § 9 b), Buyer is entitled to the statutory rights subject to the following conditions:
 - i. Seller has the right, at its own choice, to either remedy the defect or to deliver defect-free goods (supplementary performance). Buyer has to hand over to Seller the defective goods for testing purposes and grant to Seller the period of time required for supplementary performance. In case the warranty claims prove to be unjustified, Buyer has to bear the costs and expenses incurred for supplementary performance and testing, including working time, material and transport costs.
 - ii. In case the supplementary performance fails or is unacceptable, Buyer may withdraw from the contract or request a reduction of the purchase price.
 - II. Buyer has to inform Seller about any recourse claim in the supply chain immediately after obtaining knowledge.
 - III. In case of fraudulently concealed defects or guarantees given by Seller, Buyer is entitled to the statutory warranty rights.

§ 10 Liability

- a) Irrespective of the legal basis, Seller shall not be liable for damages (including expenses) of Buyer caused by simple negligence of Seller's corporate bodies, legal representatives, employees or vicarious agents.
- b) Contrary to § 10 a), Seller shall be liable for the simply negligent violation of material contractual obligations the fulfilment of which is essential for proper contract implementation and in the fulfilment of which Buyer may usually trust (cardinal obligations), but limited to the amount foreseeable at contract conclusion and typically associated with the contractual obligations.
- c) Any and all exclusions and limitations of liability in these GTDS do not apply to (i) claims for damages under the German Product Liability Act or claims based on other mandatory statutory liability provisions, (ii) the liability for damages resulting from harm to life, body or health, (iii) the liability for wilful misconduct and gross negligence, and (iv) the liability for guarantees given and procurement risks assumed, for the absence of promised characteristics, for non-compliance with binding delivery dates or for fraudulently concealed defects.
- d) All above exclusions and limitations of liability also apply to claims of Buyer on the same legal basis towards Seller's corporate bodies, legal representatives, employees, agents and vicarious agents.

§ 11 Limitation Period

- a) In case of § 438 para 1 No. 3 BGB claims for defects become time-barred one year from the statutory start of the limitation period.
- b) The regular limitation period of § 195 BGB for other contractual and non-contractual claims against Seller is one year from the statutory start of the limitation period.
- c) The above reduced limitation periods shall not apply under the circumstances that are exempt from exclusions or limitations of liability under § 10 b) and c) of these GTDS. The special provisions in in § 438 para 1 No. 2 BGB (buildings) and § 438 para 3 BGB (fraudulent intent) shall also remain unaffected. In these cases, the statutory provisions apply.

§ 12 Final Provisions, Choice of Law and Jurisdiction

- a) These GTDS and all relations between Buyer and Seller are subject to the law of Germany to the exclusion of the UN Convention on the International Sale of Goods (CISG).
- b) The courts at Seller's place of business shall have exclusive jurisdiction for all disputes arising directly or indirectly out of the contractual relationship. At Seller's choice, for suits by Seller, the courts at Seller's or Buyer's place of business or an arbitration court of the German Institution for Arbitration (DIS) according to the DIS Arbitration Rules shall be competent. The arbitration court consists of one arbitrator. The arbitration venue shall be Frankfurt/Main. The language of the arbitration proceedings shall be English.