

Trading Conditions

1. All our offers and quotations are subject to change without notice as regards price, quantity, periods of delivery, etc. The purchase contract is not deemed to have been concluded until our Confirmation of Order is received in writing. Purchaser's terms and conditions deviating from these Trading Conditions are only binding if confirmed by us in writing. Side agreements or modifications of any terms are only deemed valid in law after receipt of our confirmation in writing, this also applying to statements made by our sales offices or representatives.

We reserve the right to effect 10% excess or short delivery on all orders. If, following our Confirmation of Order, information or other findings come to light that may jeopardize our claims, we are entitled to demand advance payment or adequate security. In the event of this being declined, we reserve the right to withdraw from the contract while ruling out all claims for compensation due to non-performance. We are entitled to effect assignment of our claims resulting from deliveries and services for financing purposes.

2. The place of performance and legal venue – also in matters pertaining to bills of exchange and cheques – is the corporate domicile of SHB GmbH Crailsheim. In the event of any claims being assigned by the supplier, the assignee is entitled to exercise the option of legal venue. German Law is deemed to apply. The contractual language is deemed to be German.

3. In the event of terms of payment not being complied with or payments being deferred, interest will be charged amounting to 3% above the respective discount rate of the Deutsche Bundesbank. Additional rights are reserved, in particular claims of compensation in respect of any losses resulting from default in payment. Where defaulting occurs, we are entitled to demand payment of the sum total of all claims resulting from any business transaction. Offsetting of all payments is applied first to the reimbursement of interest and expenses followed by settlement of those claims dating back the farthest. Bills of exchange or cheques are only accepted pending full discharge of claims. Costs of discounting and collection are debited to the account of the ordering party. Any counteracting instructions of the purchaser are invalid.

4. With reservation as to unforeseeable obstacles, any stipulated period of delivery is deemed to commence from the date of the Confirmation of Order up to the time of dispatch ex works. In the event of dispatch being delayed due to circumstances for which the ordering party is responsible, the date of dispatch is deemed to be that day on which the merchandise is ready for dispatch at our works.

In the event of a set period of delivery being exceeded by us, the ordering party may withdraw from the contract after stipulating a period of grace of at least three weeks and this having expired to no avail. All other claims are ruled out. Partial deliveries are permissible and apply as self-contained transactions. Force majeure and other hindrances such as war, strike, lockout, riot or civil commotion, shortage of raw materials, mechanical damage, operating or transport delays, etc. entitle us, at our own option, to extend the set periods of delivery accordingly until after cessation of such hindrances or to withdraw from the contract.

5. Dispatch of our merchandise is effected ex works at consignee's risk, even if use is made of own means of transport.

6. No insurance coverage is provided by us. No liability is accepted for property belonging to the ordering party (e.g. material supplied by the ordering party); insurance coverage is only provided on express application.

7. Defects must be reported to us in writing after receipt of the merchandise on the purchaser's premises or at any point of delivery specified by the purchaser, such reporting to be effected within the following periods:

a) Obvious defects: Within one week.

b) Hidden defects: within one week after discovery but within six weeks after receipt of the merchandise. Merchandise may only be returned after approval has been obtained from us. No complaints can be accepted in respect of merchandise that has since been treated or processed unless hidden defects are present proved to be based on any fault of ours.

In the event of the purchaser having the reported merchandise put in storage in our warehouse, the above-mentioned periods are deemed to commence running from receipt of the invoice issued in respect of such merchandise. We undertake to enable the purchaser to inspect the merchandise placed in stock. In the event of complaints being justified and being received within the specified deadline, we are entitled, at our own option, to provide a replacement subject to stipulation of a new period of delivery or to take back the merchandise against issue of a credit note or to remedy the defect.

Additional claims of the customer are ruled out, in particular rescission of contract, reduction of purchase price or compensation. Statutory limitation enters into force within one month after our rejecting any notification of defects.

Deviations, customary in the trade, from sample, colour, grade, specific gravity, dimension or thickness are no justification for complaint. We reserve the right to supply thickness tolerances of +/- 10% and width tolerances of +/- 1 mm.

Right of complaint is ruled out on special items. In the case of Grade II products, this is limited to the effect that substandard merchandise has been supplied.

8. Where manufacture proceeds to customer's specifications, the purchaser assumes liability for any infringement of copyright. If and where we provide any technical advice or assistance in the application of our products, this proceeds according to our latest technical know-how. However, no warranty or compensation claims, regardless of what nature, are derivable from such advice or assistance.

9. Assignment and offsetting of purchaser's claims – direct or indirect – from contracts concluded with us as well as any retention due to counter-claims not being recognized by us is ruled out or is only permissible with our explicit consent.

10. Delivery of all merchandise proceeds subject to reservation of title in pursuance of Section § 449 BGB [German Civil Code] with the following extensions:

a) Ownership of the merchandise does not pass to the purchaser until the total amount of our invoice has been paid in full and cheques and bills of exchange have been honoured.

b) Until having been paid for in full, the merchandise may not be pledged or its ownership transferred, but sold in the ordinary course of business. All merchandise supplied remains our property until the purchase price has been paid in full or, in the case of cheques and bills of exchange, until these have been honoured. Where payment is effected applying the cheque/bill of exchange method, our reservation of title likewise remains upheld until the bills of exchange have been fully honoured. We are entitled to reclaim the merchandise in the event of delays occurring in payment.

c) The purchaser is entitled to dispose of or sell the merchandise within the orderly scope of conducting business. Extraordinary disposal, e.g. pledging, transfer by way of security, etc. is only permissible with our explicit consent.

d) In cases where merchandise is supplied on pallets or in cartons provided by us, these remain our property and must be returned to us by the ordering party carriage paid unless other means of immediate return are possible; in the event of non-return, we are entitled to charge the ordering party for the said pallets or cartons.

e) The purchaser undertakes to notify us immediately of any seizure by third parties of merchandise subject to reservation of property (e.g. seizure by other creditors).

11. a) Where processing of our merchandise occurs through the purchaser, we are deemed to be the manufacturers and automatically acquire ownership of the goods newly materializing. Where processing occurs in conjunction with other materials, we acquire co-ownership thereof in relationship of the invoice value of our merchandise to that of such other materials. If, in the case of any bonding or mingling of our merchandise with the purchaser's product, this is regarded as the principal product, co-ownership of such product passes to us in relationship of the invoice value of our merchandise to the invoice value of the principal product – or in the absence of any such value – to the current market value thereof. In such cases as these, the purchaser exercises the function of a custodian.

b) In the event of delays occurring in payment, we are entitled to demand provisional surrender of merchandise owned by us at the expense of the purchaser, with or without exercising contract withdrawal rights and without granting any period of grace.

c) All claims resulting from the sale of any goods on which we hold rights of ownership are automatically assigned to us by the purchaser here and now for security purposes to the extent of our share of ownership in the sold merchandise.

d) On request made by us, the purchaser undertakes to furnish us with all necessary information concerning stocks of merchandise held in our ownership as well as with regard to claims assigned to us in accordance with Clause 11c), and further to notify his customers of such assignment.

e) In the event of the value of any security exceeding our claims by more than 25%, we will release certain security, at our own option, if requested.

f) Unless stipulated otherwise, our merchandise is intended for processing at the purchaser's own plant.

g) Subject to the Federal Data Protection Act, we are entitled to process data obtained on the purchaser concerning the business relations entered into or in connection with the same, regardless of whether originating from the purchaser himself or from third parties.

12. No charges are made for customary packaging; where special or individual packaging is necessary, this is charged for at cost price.

13. All amendments to these Trading Conditions must be made in writing. Verbal agreements made prior to the conclusion of any contract, including agreements made by telephone, are deemed to be invalid unless confirmed by us in writing. Invalidity of certain provisions is not deemed to affect the validity of the remaining provisions.

(VLZ_02_2 dated 25.02.1994)