

General Terms and Conditions of Sale of SUN-Control-Analytik

§ 1 Preliminary remarks

1. Our deliveries and services are provided exclusively on the basis of the following General Terms and Conditions of Sale.
2. These Terms and Conditions of Sale apply only to companies, legal entities under public law or special funds under public law.
3. By placing the order and accepting delivery of the subject matter of the contract, the customer acknowledges the General Terms and Conditions. Any deviating or supplementary terms and conditions of the customer shall be deemed accepted only if and to the extent that we expressly acknowledge them and confirm them in writing.
4. our terms and conditions of sale shall also apply if we carry out the delivery to the customer without reservation in the knowledge that the customer's terms and conditions conflict with or deviate from our terms and conditions of sale.
5. deviations from these terms of sale require our express written acknowledgement.

§ 2 Subject matter of the contract

1. the subject matter of the contract is solely the delivery of the goods or the service defined in the order confirmation. Changes, additions and subsidiary agreements shall only be binding if confirmed by us in writing.
2. only the features listed in the order confirmation shall be deemed to be agreed as the quality of the subject matter of the contract.

§ 3 Conclusion of contract

1. We are entitled to accept the order by sending an order confirmation within 10 working days. However, any confirmation of receipt sent by us shall not constitute a binding acceptance of the order.
2. Offers, including those made on our behalf, are subject to change and non-binding. A contract shall not be deemed to have been concluded in a legally binding manner until it has been confirmed or executed by us in writing. Only our written order confirmation and our General Terms and Conditions of Sale shall be authoritative for the contract.
3. Should our order confirmation contain typographical or printing errors or should the price determination be based on technically induced transmission errors, we shall be entitled to contest the order. Payments already made will be refunded to the purchaser without delay.
4. All agreements made between us and the Buyer upon conclusion of the contract as well as any amendments or additions to the contract must be made in writing in order to be effective.
5. These General Terms and Conditions of Sale shall also apply to all future transactions with the Buyer. In the event of a continuous business relationship, the General Terms and Conditions of Sale as amended from time to time shall become an integral part of the contract even if no further express reference is made thereto.

§ 4 Prices, method of payment, set-off

1. Unless otherwise agreed, our prices are ex works excluding packaging and plus the applicable value added tax. Any costs for shipment shall be invoiced separately.
2. Our invoices are due for payment 30 days after receipt of the goods. We shall only grant discounts if we have expressly agreed to this in writing in advance.
3. The Buyer shall be in default of payment if the contractual payment date is exceeded.
4. If the buyer is in default of payment, we are entitled to charge interest on arrears at a rate of 8 percentage points above the prime rate. If we are able to prove a higher damage caused by default, we shall be entitled to claim such higher damage.
5. If the customer is in default of payment for deliveries or services based on the same legal relationship, we shall be entitled - without prejudice to our other rights - to demand advance payments and to retain goods not yet delivered or services not yet rendered.
6. If, after the conclusion of the contract, we become aware of the risk of insufficient performance on the part of the customer, we shall be entitled to make outstanding deliveries only against advance payment or the provision of security, and if these are not provided even after the expiry of a reasonable grace period, we shall be entitled to withdraw in whole or in part from individual or all affected contracts, without prejudice to further rights. We shall be at liberty to assert further rights.
7. The Buyer shall only be entitled to set-off rights if his counterclaims have been legally established, are undisputed or have been acknowledged by us.
8. The Buyer shall only be entitled to exercise a right of retention insofar as its counterclaim is based on the same contractual relationship.
9. All payment obligations arising from the contract are to be fulfilled in euros.

§ 5 Delivery time, transfer of risk

1. Performance deadlines and dates shall only be binding if they have been agreed as binding in the contract and the Buyer has notified or made available in due time all documents as well as approvals and releases required for the performance of the service. We reserve the right to plead non-performance of the contract.
2. If the buyer is in default of acceptance or debtor's delay, the risk of accidental loss or accidental deterioration of the goods shall pass to the buyer at the time when the buyer is in default of acceptance or debtor's delay.
3. We shall be deemed to have complied with the delivery period if we have notified the Buyer of completion and readiness for collection of the goods by the time of expiry of the delivery period, unless a debt to be discharged at creditor's domicile or a debt to be discharged at creditor's domicile has been agreed as an exception.
4. We are entitled to make partial deliveries to a reasonable extent.
5. If the goods are shipped to the Buyer or to a place of delivery designated by the Buyer at the Buyer's request, the risk of accidental loss or accidental deterioration of the goods shall pass to the Buyer upon handover of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. This shall apply regardless of whether the goods are shipped from the place of performance and who bears the freight costs.
6. The delivery takes place under the reservation of the correct and punctual self supply by our supplier. This shall only apply in the event that we are not responsible for the non-delivery. We will immediately inform the buyer in writing about the non-availability of the service and immediately refund any purchase price already paid.
7. Operational disruptions, shortages of energy or raw materials, traffic disruptions, insofar as such events were not foreseeable, as well as strikes, lockouts, official decrees and cases of force majeure shall release the party affected thereby from the obligation to deliver or accept for the duration of the disruption and to the extent of its effect. If delivery or acceptance is delayed by more than 1 month as a result, each of the parties shall be entitled to withdraw from the contract with respect to the quantity affected by the disruption in delivery or acceptance.
8. However, we shall be entitled to make partial deliveries of the contractual items if these are possible for us despite the disruption. The invoice amount shall be reduced proportionately. In this respect, the customer is only entitled to partial withdrawal. This does not apply if the customer has no interest in the partial delivery.

§ 6 Retention of title

1. We reserve title to the goods delivered as security for all claims to which we are entitled against the Buyer under the business relationship. In case of breach of contract by the buyer, in particular in case of default of payment, we shall be entitled to take back the goods. The taking back of the goods by us means a withdrawal from the contract. After taking back the goods, we shall be entitled to dispose of them; the proceeds of such disposal shall be credited against the Buyer's liabilities - less reasonable costs of disposal.
2. Our ownership shall extend to the new products created by processing the goods subject to retention of title. The processing shall be carried out for us as manufacturer. In the event of processing, combination or mixing of materials not belonging to us, we shall acquire co-ownership in the ratio of the invoice value of our reserved goods to the invoice values of the other materials.
3. The Buyer hereby assigns to us all claims arising from the sale of goods subject to retention of title, including bills of exchange and checks, as security for the respective claims pursuant to subsection (1). We accept the assignment already now. In the event of the sale of goods in which we have co-ownership, the assignment shall be limited to the share of the claim corresponding to our co-ownership share.
4. As long as the Buyer is willing and able to duly meet his obligations towards us, he may dispose of the goods owned or co-owned by us in the ordinary course of business and collect the claims assigned to us himself. We undertake not to collect the claim as long as the purchaser meets his payment obligations from the proceeds received, is not in default of payment and, in particular, no application for the opening of insolvency proceedings has been filed or payments have not been suspended. If this is the case, we may demand that the Buyer inform us of the assigned claims and their debtors, provide all information required for collection, hand over the relevant documents and inform the debtors of the assignment.
5. The Buyer shall provide us at any time with all requested information about the Retained Products or about claims that have been assigned to us hereunder. The Buyer shall notify us immediately of any access or claims of third parties to products subject to retention of title, handing over the necessary documents. At the same time, the purchaser shall inform the third party of our retention of title. The buyer shall bear the costs of defense against such seizures and claims.
6. The buyer is obligated to treat the reservation products for the duration of the retention of title carefully.
7. The purchaser may only transfer ownership by way of security, pledge and assign claims, including by way of sale of claims, with our prior written consent.

8. If the value of the securities exceeds the claims to be secured by more than 10%, we shall release securities of our choice to this extent at the request of the purchaser. 9. at our request, the purchaser shall be obliged to release securities of his choice.
9. At our request, the purchaser shall be obliged to insure the products subject to retention of title adequately for the duration of the retention of title, in particular against theft, breakage, fire, water and other damage. The Buyer is obliged to provide the corresponding proof of insurance and to assign the claims arising from the insurance contract to us. I
10. in the case of deliveries to other jurisdictions where the above retention of title provision does not have the same security effect as in Germany, the Buyer shall do everything in its power to provide us with appropriate security rights without delay. The Buyer shall cooperate in all measures, such as registration, publication, etc., which are necessary and conducive to the effectiveness and enforceability of such security rights.

§ 7 Warranty for defects

1. The goods shall correspond to the respective state of the art, unless otherwise agreed in writing.
2. The buyer must check immediately after receipt of the goods whether the delivered goods are of the contractually agreed quality and suitable for the intended use. We must be notified in writing of any recognisable defects without delay, but no later than 7 days after delivery, and of any non-recognisable defects without delay after discovery. If the buyer does not comply with this obligation, the delivery shall be deemed to have been approved.
3. In the event of any notification of defects, we shall have the right to inspect and test the object of the contract which is the subject of the complaint. The buyer shall grant us the necessary time and opportunity for this. We may also require the buyer to return the object of the contract which is the subject of the complaint to us at their expense. If a notice of defect by the buyer proves to be unjustified and if the buyer has recognised this before raising the notice of defect or has negligently failed to recognise this, the buyer shall be obliged to reimburse all costs incurred by us in this connection, e.g. travel or shipping costs.
4. If the goods are defective, the buyer shall be entitled, at his discretion and after setting a reasonable period of time, to demand subsequent performance in the form of rectification of the defect or delivery of a defect-free item. If the subsequent performance within the meaning of § 440 S. 2 of the German Civil Code (BGB) fails, the buyer shall be entitled, at his discretion, to withdraw from the contract or to reduce the purchase price. This shall also apply if we seriously and finally refuse subsequent performance. If the defect is only insignificant, the buyer shall only be entitled to a reduction of the purchase price.
5. Rights of the buyer due to defects are excluded in the following cases: in the event of natural wear and tear, if damage to the contractual objects occurs for reasons for which the buyer or subsequent customers in the supply chain are responsible, in particular due to improper use, failure to observe the operating instructions, incorrect commissioning or incorrect treatment (e.g. 6. Any transport, travel and storage costs shall be borne by the purchaser, subsequent customers in the supply chain or by third parties commissioned by them, in the event of the use of unsuitable accessories or unsuitable spare parts or the implementation of unsuitable repair measures by the purchaser, subsequent customers in the supply chain or by third parties commissioned by them, as well as in the event of chemical influences, provided that we are not responsible for these reasons. We shall not bear any transport, travel, labor and material costs for the purpose of subsequent performance insofar as these are increased because the subject matter of the contract has been taken to a place other than the Buyer's branch office after delivery, unless the transfer is in accordance with its intended use.
6. We shall not bear any transport, travel, labour and material costs for the purpose of subsequent performance insofar as these are increased because the subject matter of the contract has been taken to a place other than the buyer's branch office after delivery, unless the transfer is in accordance with its intended use.
7. The limitation period for the buyer's rights due to defects is 12 months from the time of the transfer of risk. This period does not apply to the buyer's rights in the case of fraudulently concealed or intentionally caused defects, if and insofar as we have assumed a guarantee, to the buyer's claims for damages based on culpable injury to life, limb or health, to the buyer's claims for damages due to damage caused by us intentionally or through gross negligence, to 'claims for damages by the buyer for reasons other than defects in the subject matter of the contract and to claims under the Product Liability Act or in the case of other mandatory statutory liability provisions. Insofar as an object of the contract is sold by the buyer or customers following in the supply chain to a consumer within the meaning of § 13 BGB (German Civil Code), the provisions of '§ 445 BGB (German Civil Code) on a longer limitation period shall remain unaffected for any recourse claims.
8. Except in cases of intent, gross negligence and personal injury, warranty claims in respect of all products supplied by the seller shall become statute-barred within one year unless otherwise agreed in writing. The period shall commence at the point in time specified in § 199 of the German Civil Code (BGB). It shall commence at the latest upon expiry of the maximum periods stipulated in § 199 para. 3 and para. 4 BGB.

9. Warranty claims shall not exist in the case of only insignificant deviations from the agreed quality, in the case of only insignificant impairment of usability, in the case of natural wear and tear and in the case of damage arising after the transfer of risk as a result of incorrect or negligent use, excessive use, excessive stress, defective assembly or due to special external influences which are not assumed under the contract. Furthermore, there shall be no claims for material defects if the buyer has not complied with the instructions for handling, maintenance, inspection and care of the goods, in particular those contained in the operating instructions.
10. If the buyer or a third party carries out improper repair work or changes to the goods, there shall also be no warranty claims for these and the resulting consequences.
11. In the event of fraudulent concealment of a defect or in the event of the assumption of a guarantee for the quality of the goods at the time of the transfer of risk within the meaning of § 444 of the German Civil Code (BGB), the rights of the buyer shall be governed exclusively by the statutory provisions.

§ 8 Liability

1. All claims for damages by the buyer against us are excluded, irrespective of the legal grounds, unless we or our vicarious agents have acted with intent or gross negligence or have breached material contractual obligations through slight negligence. Material contractual obligations are obligations which protect the legal positions of the contractual partner which are material to the contract and which the contract is intended to grant to the contractual partner in accordance with its content and purpose. Furthermore, essential contractual obligations are those whose fulfilment makes the proper performance of the contract possible in the first place and on whose compliance the contractual partner has relied and was entitled to rely.
2. In the event of gross negligence or slightly negligent breach of an essential contractual obligation, compensation for damages shall be limited to the typical and foreseeable damage.
3. Liability for damage not occurring to the subject matter of the contract shall be excluded, except in cases of intent and gross negligence.
4. Liability for culpable injury to life, limb or health shall remain unaffected; this shall also apply to mandatory liability under the Product Liability Act or in the event of the assumption of a guarantee.
5. To the extent that our liability is excluded or limited, this shall also apply to the personal liability of our employees, workers, staff, representatives and vicarious agents.
6. A limitation period of one year shall apply to all claims for damages or compensation for futile expenses in the case of contractual and non-contractual liability asserted against the seller - except in cases of intent, gross negligence or personal injury. The period shall commence at the point in time specified in § 199 of the German Civil Code (BGB). It shall commence at the latest upon expiry of the maximum periods stipulated in § 199 para. 3 and para. 4 BGB. 7.
7. The customer is obliged to take reasonable measures to avert and minimise damage. 8. If damage is caused by our liability, the customer is obliged to take reasonable measures to avert and minimise damage.
8. If damages are covered by our liability or product liability insurance, we shall assign these insurance claims to the customer and shall be released from any liability in accordance with the insurance coverage.

§ 9 Final provisions

1. German law shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods unless otherwise agreed in writing.
2. The exclusive place of jurisdiction for all disputes in connection with the business relationship shall be our registered office; however, we shall also be entitled to sue the buyer at his general place of jurisdiction. If the buyer has no general place of jurisdiction in Germany or in another EU member state, the exclusive place of jurisdiction for all disputes arising from and in connection with this contract shall be our place of business.
3. The language of the contract shall be German.
4. The place of performance is our place of business.
5. Should one or more of these terms and conditions be or become wholly or partially invalid, incomplete or in need of amendment, this shall not affect the validity of the remaining clauses.
6. In this case, the parties undertake to agree on a provision that comes as close as possible to what was economically intended. Gaps in the provisions shall be dealt with in the same way.

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