

General Terms and Conditions of PUR-Systems GmbH

(referred to below as "PUR-Systems" or "we", or "us")

Page 1

I. General

1. Our quotations, also in the case of future commercial transactions, are made solely on the basis of these General Terms and Conditions. Any deviations from our General Terms and Conditions, in particular the Buyer's Terms and Conditions shall only apply if they are confirmed by us in writing. These General Conditions of Sale and Delivery also apply if we are aware of different Terms and Conditions of the Buyer and carry out the delivery without reservation. All agreements between us and the Buyer are laid down in writing in the contract.
2. These General Terms and Conditions only apply vis-à-vis entrepreneurs within the meaning of § 310 (1) BGB [German Civil Code].
3. When interpreting trading clauses, in cases of doubt the Incoterms® in the version valid at the time of conclusion of the contract are definitive.
4. These General Terms and Conditions have been drawn up in German. Versions in other languages exist purely to enable better comprehension on the part of our foreign customers. For legal assessment and for questions of interpretation, solely the German version is definitive.

II. Conclusion of the contract and condition of the goods

1. Our quotations are always subject to confirmation. PUR-Systems retains the right of ownership and copyright to formulations, concepts, cost estimates, calculations, drawings, samples and other documents and information. These documents may not be made accessible to third parties without express written agreement. On request, the documents must be returned without any copies being retained.
2. With regard to stipulating the contractual quality of the goods, the product specifications drawn up by PUR-Systems or, in the case of approval, the product specifications approved by the Buyer, is definitive. The shelf-life of the goods named in the product specifications or in other documentation or labels is always a component of the contractual quality. It is imperative that the goods are used by the Buyer within the shelf-life period named. Should the goods to be delivered be, according to the Buyer's wishes, not suitable exclusively for the conventional use or if the Buyer assumes a certain suitability of use of the goods or a certain quality or if the Buyer plans to use the goods for an unusual purpose, to process unusual materials, under increased stress or exposed to particular dangers to life, limb, health or the environment or if compliance with particular regulations is required, the Buyer is obliged to advise PUR-Systems in writing prior to conclusion of the contract of the relevant expectations or circumstances. Without express agreement, the suitability of the goods for a particular purpose, except for the conventional use, is not a component of the contractual quality.
3. The contract comes into effect through the written order confirmation from PUR-Systems or, in the absence of such a confirmation, through the execution of the order. The written order confirmation from PUR-Systems dictates the entire content of the contract. This applies, subject to objections put forward at short notice and in writing by the Buyer, also if it deviates from declarations of the Buyer. Public statements, promotion or advertising material do not, in contrast, constitute contractual information relating to the quality of the goods. Samples passed to the Buyer are only binding for the determination of the contractual quality if this has been agreed in writing. The Buyer does not receive guarantees in the legal sense. If an order from the Buyer can qualify as a quotation under § 145 BGB [German Civil Code], PUR-Systems may accept this within two weeks after receipt of the order by PUR-Systems. If the order deviates from the suggestions or the quotation from PUR-Systems, the Buyer shall draw the order up in writing and make the deviations known.
4. All agreements existing between the Buyer and PUR-Systems are laid down in writing in this contract. The employees, commercial agents and/or other distribution intermediaries of PUR-Systems are not authorised to conclude side agreements or give assurances or guarantees that go beyond the content of the written agreements.
5. Information provided regarding application-specific questions is non-binding recommendations on our part. We do not provide consultancy services but simply identify, with this information the scope of services to be offered. Checking whether the products offered by us are suitable for the intended purpose, specific planning and execution (in particular the foaming of the liquid) are the responsibility of the Buyers themselves. We expressly draw attention to the possible necessity of engaging appropriately qualified specialists.

III. Settling of invoices

1. Prices are ex works in euros. Invoices are due for payment upon receipt. Added to the agreed price is VAT at the statutory level applicable at the time of delivery. Payment of the purchase price must be made without any deductions. Discounts, reductions and times allowed for payment require written agreements. An agreed discount or payment period always starts from the invoice date.
2. The Buyer may only offset claims against our own or assert a right of retention if the counterclaim is undisputed, recognised or has been established as final and absolute or if it is based on the same contractual relationship.
3. If we accept bills of exchange or cheques, discounting and bank charges shall be borne by the Buyer. We do not offer any guarantees regarding timely submission or protesting.
4. In the event of default of payment or justified doubts in the Buyer's ability to pay or creditworthiness, we are authorised to demand immediate payment for any claims arising from the business relationship with the Buyer and to demand payment in advance for outstanding deliveries. If the 30 calendar days following the due date and receipt of an invoice are exceeded, we are entitled to demand default interest at the statutory level. Otherwise, the legal regulation applies in the event of default of payment.

5. Any increase in, or newly introduced customs and tax payments of all types occurring after the date of conclusion of the contract shall be borne by the Buyer, even if a fixed price has been agreed upon.

IV. Delivery and acceptance

1. While the Buyer is in default with a payment it owes us, our obligation to deliver rests. We are entitled to make partial deliveries and the Buyer is obliged to accept partial deliveries unless it is unreasonable to expect Buyer to accept the partial delivery.
2. If, due to our fault, the delivery deadline is exceeded, the Buyer may, to the exclusion of further rights, after the expiry of an appropriate grace period that it has set in writing, withdraw from the contract or demand compensation. Unless we have unlimited liability according to mandatory legal provisions owing to intent or gross negligence, claims for damages of the Buyer owing to default or non-fulfilment are, in terms of the amount, limited to the invoice value of the objects of purchase which are not delivered or not delivered on time.
3. Delivery deadlines or periods shall be adjusted or extended appropriately if PUR-Systems is hindered in the timely fulfilment of its obligations e.g. through force majeure, as a result of industrial action, shortage of energy or raw materials, unforeseeable interruptions to operations, transport disruptions authority decrees or other circumstances not the fault of PUR-Systems. This also applies if corresponding circumstances affect the upstream supplier. PUR-Systems is not liable for resulting damage on any legal grounds. If the hindrance lasts for longer than 1 month, the Buyer is entitled, once an appropriate grace period has been set, to withdraw from the contract in view of the part that has not been fulfilled. In this case, it is not entitled to claims for damages.

V. Packaging/ Empties

1. The Buyer is liable in the event of improper use of, damage to and/or loss of the packaging, - apart from disposable containers -, which we provided or passed to it or to a third party named by it. The Buyer must empty packaging passed to it immediately and return it to us in cleaned condition, to the exclusion of a right of retention, carriage-free and free of expense to the address given by us. In the event of delayed emptying/return of packaging, the Buyer must, irrespective of fault, pay the usual demurrage charges and packaging rents.
2. Disposable containers and packaging may only be reused in commercial transactions once our company logo or trademark has been made unrecognisable.
3. If there is no obligation to return it, the Buyer is obliged to dispose of transport and sale packaging and empty containers in accordance with the legal provisions.

VI. Shipping and transfer of risk

1. If nothing else is agreed in writing, the delivery shall be "ex works" (EXW/supply plant PUR-Systems according to Incoterms®). The risk of accidental destruction and of accidental impairment to the goods, if collected from our factory, passes to the Buyer at that point in time at which the goods are made available for collection and this was notified to the Buyer. If the delivery is agreed to be made outside of the factory, then the risk passes to the Buyer as soon as the goods have been handed to the shipping company, carrier or other person appointed to ship the goods. The risk also passes to the Buyer if the latter defaults in acceptance.
2. Freight costs are borne by the Buyer. If delivery to a location outside the factory is agreed, the method of shipment and transport route shall be selected by us; here we endeavour to ensure the most cost-effective method of shipment possible and try to take into consideration special requests of the Buyer.
3. On collection of the goods, the Buyer or the person it has appointed by to ship the goods takes responsibility for operationally safe and safe-for-transport cargo securing.

VII. Protective rights of third parties

1. If deliveries are made on the basis of drawings or other information from the Buyer or if the Buyer changes the goods or combines them with other goods or products and if protective rights of third parties are infringed as a result, then the Buyer shall release us from all claims of third parties; in this case, we are not obliged to fulfil the contract but entitled to demand reimbursement of the agreed compensation minus our saved expenses.
2. PUR-Systems ensures that the goods, in the Federal Republic of Germany, are free from third-party rights or that appropriate rights exist which enable the Buyer to use the goods within the contractually agreed scope.
A precondition for this, however, is that the Buyer immediately notifies PUR-Systems about claims from protective rights that third parties bring against it and, when handling these claims and pursuing its rights, proceeds in consultation with PUR-Systems. If one of these preconditions is not met, then PUR-Systems is released from its obligation. If there results an infringement of protective rights for which PUR-Systems is liable according to the terms, and if the Buyer is therefore legally prohibited from using the goods either in full or in part, then PUR-Systems shall at its own cost, decide whether to:
 - a) give the Buyer the right to use the goods or
 - b) design the goods so they are free from protective rights or
 - c) replace the goods with other goods which do not infringe any protective rights or
 - d) take back the goods in return for reimbursement of the price paid by the Buyer.Wider-reaching or other claims than those provided for in this Clause VII (2) are not due to the Buyer owing to the infringement of protective rights of third parties. The limitations of liability do not apply if, in cases of intent or gross negligence or the breach of key contractual obligations or the absence of assured properties mandatory liability exists for foreseeable damage typical for the contract. The right of the Buyer to withdraw from the contract remains unaffected.

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Page 2

VIII. Warranty and liability

1. The Buyer's rights in the event of defects assume that the Buyer has properly fulfilled its duties of investigation and notification of defects under § 377 HGB [German Commercial Code]. Notifications of defects must be made in writing and state the nature and scope of the deviation from the agreed or usual quality or suitability for use.
2. There is a defect as to the quality present in the goods if the goods, taking into account the provision in Clause II (2), noticeably deviate from the agreed design, quantity or quality or, unless agreed otherwise, from the quality usual in Georgsmarienhütte. A defect of title exists if the goods, at the time of transfer of risk, are not free from rights or claims of third parties that are capable of being asserted in the Federal Republic of Germany. Further legal exclusions or limitations of the responsibility of PUR-Systems remain unaffected. If nothing else has been expressly agreed, PUR-Systems is in particular not responsible for the goods being suitable for a use other than what is customary, or fulfilling expectations of the customer that go beyond this or for the goods being free from rights/claims of third parties outside of the Federal Republic of Germany.
3. In the case of justified complaints, the Buyer may demand supplementary performance according to the statutory regulations. Supplementary performance shall, at the discretion of PUR-Systems, take place either by removing the defect or supplying new goods free from defects.
4. In the event that supplementary performance should have finally failed, the Buyer may at its discretion demand a lowering of the price (reduction) or cancellation of the contract (withdrawal) according to the statutory regulations.
5. PUR-Systems is liable in accordance with the statutory provisions if the Buyer asserts claims for damages based on intent or gross negligence. Except in the case of an intentional breach of contract which is caused by PUR-Systems, the liability for compensation held by PUR-Systems is however limited to the foreseeable, typically occurring damage.
6. PUR-Systems is liable in accordance with the statutory provisions if a key contractual obligation is culpably infringed. In this case, the liability for compensation is however limited to the foreseeable, typically occurring damage.
7. Liability owing to culpable injury to life, limb or health remains unaffected by the above limitations. This also applies to mandatory liability in accordance with product liability law.
8. The limitation period for claims arising from defects is 12 months from the date of transfer of risk. This does not affect compensation claims in accordance with §§ 438 (1) No. 2, 634a (1) No. 2 BGB for damages claims arising from injury to body life or health and/or for damages claims based on grossly negligent or intentional conduct. For these claims the statutory limitation period applies. Supplementary performance measures do not result in an extension to the period provided for in Sentence 1 and do not contain any acknowledgment giving rise to a new start of limitation period. In the event of a suppliers' recourse in accordance with §§ 478, 479 BGB the statutory limitation period shall remain unaffected.
9. PUR-Systems is not liable for defects caused by drafts, formulations or raw materials provided by the Buyer or, at the Buyer's behest by third parties or for defects in the goods which are attributable to the defectiveness of such goods or services provided.
10. Liability for normal wear and tear and for damage resulting from unsuitable or improper use of the goods is excluded. If information on the shelf life or user manuals, operating instructions, directions, safety instructions or maintenance instructions are not followed or changes are made to the goods which do not correspond to the original specifications (in particular, through the addition of other substances or a change to the formulation), then any liability for defects fails to apply if the Buyer cannot prove that the defect is not attributable to these circumstances. Likewise, no claims on the part of the Buyer exist in the case of normal signs of wear and tear and only small deviations in colour or design which it is reasonable to expect the Buyer to accept.

IX. Total liability

1. Further liability for damages beyond that provided for in Clauses IV (2), VII and VIII is excluded, irrespective of the legal grounds.
2. Insofar as the liability of PUR-Systems is excluded in accordance with these terms and conditions, this also applies to the personal liability of its representatives, vicarious agents or employees.
3. Insofar as PUR-Systems is not liable for intent or the claim of the Buyer has not already become time-barred, the Buyer is obliged, in the event of legal actions for compensation, to bring these within a cut-off period of 6 months following rejection of the claim by PUR-Systems. The limitation period for the exceptions from the limitation of liability specified in Clause VIII (8) of these General Terms and Conditions remains unaffected.
4. The customer is obliged to cooperate in the avoidance of damage. In particular, if the goods are resold or products manufactured using the goods are used, the customer is obliged to limit its liability with its customers to the extent customary in the industry and to the extent legally possible.

X. Retention of title

1. We retain title to the goods delivered by us to safeguard all rights due to us from the current and future business relationship with the Buyer until all claims and invoice balances have been settled. Our title also extends to the new items resulting from processing of the goods subject to retention of title; the Buyer produces the new item for us to the exclusion of its own acquisition of title and keeps it safe for us free of charge.

2. In the event that our goods subject to retention of title are processed with goods from other suppliers, we are entitled to co-ownership of the new items in the proportion of the invoice value of the goods subject to retention of title to the invoice value of the other goods. The same applies in the event of combination or mixing of the goods with other items. No claims from the processing against us are due to the Buyer.
3. If the Buyer sells our goods subject to retention of title to third parties, it already at this point in time assigns to us its claims with all ancillary rights within the scope of our ownership share for security. We accept the assignment. In the case of processing as part of a contract for services, the claim for work performed amounting to the pro rata amount of our invoice for the jointly processed goods subject to retention of title is already at this point assigned to us. We accept the assignment.
4. The Buyer may sell the delivered goods and the items resulting from the processing, combining or mixing thereof in the course of a proper business transactions in return for payment or subject to retention of title and may itself collect the claim assigned to us as long as the Buyer properly fulfils its obligations arising from the business relationship with us. In the event of default of payment or justified doubts in the ability of the Buyer to pay or in its creditworthiness, we are entitled to collect the assigned claims ourselves and to take back the goods subject to retention of title; taking back the goods subject to retention of title only constitutes withdrawal from the contract if we expressly declare this in writing to be the case. If the value of the securities granted to us exceeds our claims by more than 10 %, the Buyer may demand that we release securities to this extent at our discretion.

XI. Trademarks

If we supply objects bearing a trademark, these objects may only be used with our separate written approval or with the written approval of the trademark owner in connection with the products manufactured by the Buyer.

XII. Export certificate, confirmation of arrival, VAT identification number, compliance with statutory regulations

1. If a commercial Buyer or its representative collects the goods and transports, takes or ships these abroad, then the Buyer must present the export certificate required for tax purposes or the confirmation of arrival to PUR-Systems within 10 days of delivery. If the documents are not presented, the Buyer must pay, from the invoice amount, the rate of VAT applicable to deliveries within the Federal Republic of Germany.
2. PUR-Systems reserves the right to initially calculate and collect the VAT, and following presentation of the required proof of export, to credit and reimburse the sums in question.
3. A commercial Buyer based in another EU member state is obliged to notify PUR-Systems, prior to delivery, of the VAT ID number assigned to it. If this notification has not taken place, PUR-Systems is not obliged to perform the delivery.
4. The Buyer shall satisfy all applicable laws, rules and regulations concerning export control and trade embargoes (including the U.S. Export Administration Regulations) and the relevant Huntsman guidelines and may not, neither directly or indirectly sell on, export, re-export, distribute, transfer or directly or indirectly dispose of the material in another way unless the necessary authorisations, approvals and permits have been obtained in advance and all formalities required by these laws, rules and regulations have been fulfilled.
5. The Buyer represents that in its business transactions with PUR-Systems he shall always act in conformity with all applicable legal norms, in particular tax and foreign exchange-related provisions and all regulations concerning environmental protection.

XIII. Applicable law, place of fulfilment, place of jurisdiction and miscellaneous

1. The assignment of claims from the business relationship by the Buyer requires the prior written approval of PUR-Systems.
2. Solely the law of the Federal Republic of Germany applies, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG). The applicability of the UN Sales Convention is also explicitly excluded in the event that its application is provided for in the Buyer's Terms and Conditions.
3. The place of fulfilment for the delivery is our respective dispatch location. The place of fulfilment for the payment is Georgsmarienhütte.
4. The sole place of jurisdiction for all disputes arising from this contract is our registered office. However, PUR-Systems is entitled to bring an action against the Buyer at the location of its registered office or its commercial establishment.

XIV. Data protection

In all data processing procedures (processing, collection, use, transmission, storage, deletion) we comply with the statutory provisions. We have summarised all necessary information in a data protection declaration to which we refer at this point. Please familiarise yourself with our data protection declaration. It can be read, downloaded and printed at www.pursystems.de. Upon request, we will be happy to send you our data protection declaration at any time by e-mail or by post.

The entity responsible for the processing of your personal data is:
PUR-Systems GmbH, Werner-von-Siemens-Str. 22, D-49124 Georgsmarienhütte,
Phone: +49 (0) 5401 8355-0, E-Mail: info@pursystems.de

We have appointed a data protection officer for our enterprise.
The contact details of our data protection officer are as follows: Dipl.-Kfm. Björn Voitel,
DSO Datenschutz Osnabrück GmbH, Brückenstr. 3, 49090 Osnabrück, Germany,
Phone: +49 (0) 541 60081631, E-Mail: bv@dso-datenschutz.de