

General Conditions of Sale of the GRAFE Group

The following General Conditions of Sale shall only apply to the commercial and public domain pursuant to Articles 305 - 310 of the (German) Civil Code (BGB) and shall be applicable to all future business transactions with us, unless something else has been agreed. Our General Conditions of Sale shall only apply to transactions with companies in the sense of Article 310, paragraph 1, of the BGB.

1. Our offers are subject to change. The contract shall only materialize by our order confirmation or when we execute the purchase order.

2. Deviations from these Conditions of Sale need to be explicitly confirmed by us in writing. We shall not recognize any conditions of the buyer contradicting our General Conditions of Sale or deviating from them, unless we have given our explicit written consent to such conditions. Our General Conditions of Sale shall also be applicable, if we execute deliveries to the buyer without any reservations, although we have knowledge of the buyer's contradictory conditions or conditions deviating from our own Terms of Delivery and Payment.

3. Should we generally decrease or increase our prices in the period between contracting and executing the delivery, the price valid on the day of delivery shall apply. Should the prices increase, the buyer shall be entitled to withdraw from the contract within 14 days after having been informed about the price increase.

4. Deviations from the product information shall be permitted, as far as they are irrelevant or unavoidable despite all due care and attention given to such information.

5. If, due to the production process, the quantity supplied as part of a purchase order deviates slightly from the quantity actually ordered, the quantity supplied shall become the subject of the contract.

6. We shall provide advice to the best of our knowledge on the basis of our research and the experience gained. However, any such information and advice given about the suitability and application of our products is non-binding and shall not release the buyer from his duty to subject the products to his own tests and examinations. When using our products, the buyer shall be responsible for observing the statutory and official regulations.

7.1 Before ordering the article for the first time, the buyer shall confirm in writing the release of the sample that the seller has delivered in advance. Should the article be ordered without this written release, the release of the article is deemed to have been effected with the existing quality features. Deliveries of that kind without the prior release of the article(s) concerned shall always and exclusively be at the buyer's own risk. Any warranty claims in this respect shall be excluded.

7.2 Complaints due to defects in quality, incorrect deliveries and deviations from the quantity ordered shall be lodged in writing immediately, but not later than 14 days after receiving the goods, provided such faults are obvious and can be identified without any unreasonable effort.

7.3 Should a complaint be justified, we shall deliver the missing quantities as part of a subsequent consignment or shall exchange the faulty goods. If the goods cannot be exchanged or if the replacement delivery is faulty, it is the buyer's choice to return the goods to us or claim a price rebate.

8. Claims for damages on the part of the buyer based on a slightly negligent violation of our contractual or statutory duties shall be excluded. The liability for personal injuries pursuant to the Product Liability Act shall not be affected.

9.1 Our goods shall only be supplied in standard packaging.

9.2. The risk shall pass to the buyer, as soon as the goods have been handed over to the carrier or left our Works or the warehouse. This shall also apply, when we pay the shipping costs ourselves. The buyer shall take up any complaints concerning shipping damage directly with the carrier within the period specifically stipulated for this purpose. It shall be up to the buyer to take out any shipping or other insurances.

10. Wars, strikes, lock-outs, shortages of raw materials and energy, traffic and unavoidable operating disturbances, official decrees – also to the extent that the transaction concerned will be commercially no longer viable in the foreseeable future – as well as all other events of force majeure, also those affecting our suppliers, shall release us from our obligation to execute deliveries to the extent as they are affected and for the duration of such disturbances. Events of that kind shall entitle us to withdraw from the contract, partly or fully, without the buyer being entitled to damages.

11.1 Setting off purchase-money claims against counter-claims that are undisputed or legally established as well as executing the right of refusal to perform or the right of retention shall require our approval.

11.2 In the event of justified doubts about the buyer's liquidity, especially in the event of outstanding payments, we shall be entitled, subject to further claims for subsequent deliveries, to demand prepayments or securities as well as to revoke the terms of payment granted.

12.1 We shall reserve the title to the goods delivered, as long as we have open claims from the current business relationship with the buyer. We shall also reserve the title to the goods delivered, as long as we have open claims from the future business relationship with the buyer.

12.2 The buyer shall be entitled to dispose of the goods to which we have a title as part of his normal business transactions, as long as he performs his duties arising from the business relation with us in a timely fashion.

12.3 If the buyer processes our products, we shall be deemed the manufacturer and shall acquire the ownership in the newly-manufactured goods. If our products are processed together with other materials, we shall acquire a co-ownership share in the proportion of our products' invoiced value to that of the other materials. Should our goods be combined or mixed with materials of the buyer, as a result of which these goods must be considered as the principal product of the buyer, the co-ownership in this principal product with such vested title shall devolve onto us in the proportion of our products' invoiced value to that of the principal product, or – if no such invoiced value can be established – in the proportion of the principal product's current market value. The buyer is deemed to be the depository in such cases.

12.4 Should the buyer default on his payments, we shall be entitled to demand, at the buyer's costs, the return of the goods to which we have a title, also without executing the right of withdrawing from the contract and without granting a period of grace.

12.5 The buyer shall herewith assign as a security all claims arising from the sale of goods to which we have title to the extent of our claim in the goods sold.

12.6 The buyer shall, at our request, provide us with the necessary information about all goods to which we have a title and about the claims assigned to us pursuant to section 12.5 above, and he shall notify his customers about this assignment.

12.7 If the value of the securities exceeds our claims by more than 25 per cent, we shall release securities at our discretion, if requested to do so by the buyer.

13. The place of performance for all accounts payable arising from the contract as well as the place of jurisdiction is Blankenhain.

Status: September 2007