

General Terms and Conditions of Sale and Delivery

§ 1 Scope of application, form

(1) These General Terms and Conditions of Sale ("GTC") shall apply to all business relations and supply agreements between ORLEN Unipetrol Deutschland GmbH, Paul-Ehrlich-Straße 1B, 63225 Langen ("we") and our customers ("Buyer"). The GTC shall only apply if the Buyer is acting for commercial purposes (entrepreneur in the meaning of Section 14 of the German Civil Code (BGB)), or is a legal entity under public law or a special fund under public law. We only supply commercial customers and do not conclude supply contracts with consumers.

(2) The GTC apply in particular to agreements and contracts for the sale and/or delivery of movable goods ("Goods"), regardless of whether we manufacture the Goods ourselves or purchase them from suppliers. Unless otherwise agreed, the GTC shall also apply as a framework agreement for similar future contracts, deliveries and services in the version valid at the time of the Buyer's order, or in any case in the version last communicated to the Buyer in text form or included in a contractual relationship with the Buyer, without us having to refer to them again in each individual case.

(3) Our GTC shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions and contractual offers of the Buyer shall only become part of the contract if and to the extent that we have expressly agreed to their validity. This requirement of consent shall apply in any case, for example even if the Buyer refers to his General Terms and Conditions or deviating terms and conditions in the context of the order and we do not expressly object to this.

(4) Individual agreements (e.g. framework supply agreements, quality assurance agreements) and information in our order confirmation shall take precedence over the GTC. In case of doubt, commercial clauses shall be interpreted in accordance with the Incoterms® issued by the International Chamber of Commerce in Paris (ICC) in the version valid at the time of conclusion of the contract.

(5) Legally relevant declarations and notifications by the Buyer relating to the contractual relationship (e.g. setting of deadlines, notification of defects, cancellation or reduction) must be made in writing. "Written form" or "in writing" within the meaning of these GTC includes the written form and the text form (e.g. letter, e-mail, fax). Statutory formal requirements remain unaffected.

(6) References to the validity of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTC.

(7) Order processing and contact in the context of contract processing are usually carried out by e-mail. The buyer must therefore ensure that the e-mail address provided by him is correct and that no settings or filter devices of the buyer prevent the receipt of contract-related e-mails.

(8) The Buyer is obliged to provide us with all information originating from his sphere which is necessary for the fulfilment of the contract. We may consider the information provided by the Buyer or its auxiliary persons to be correct and complete and are not obliged to verify it.

§ 2 Conclusion of contract

(1) Our offers are subject to change without notice and are non-binding. This also applies if we have provided the Buyer with catalogs, technical documentation (e.g. calculations, calculations, references to DIN standards), other product descriptions or data or documents, to which we always reserve all rights.

(2) The Buyer's order of the goods shall be deemed to be a binding offer to conclude a purchase agreement with us. Unless otherwise stated in the order, we are entitled to accept this contractual offer within 7 days of its receipt by us.

(3) Acceptance may be declared either in writing (e.g. by order confirmation) or by delivery of the goods to the Buyer.

(4) We owe the agreed contractual performance, but not the realization of a success beyond the respective performance. The usability of the delivered products for certain purposes, the suitability for certain uses or the consideration of special requirements and conditions of the Buyer shall only become part of the contract if this has been expressly agreed or if we are responsible for a defect in accordance with § 7 of these Terms and Conditions. Notwithstanding the foregoing, the Buyer shall verify prior to ordering whether the products to be purchased are suitable for the intended use. We are not obliged to provide pre-contractual advice or testing unless this has been agreed in writing with the Buyer.

(5) We are only obliged to comply with legal requirements, in particular with regard to the quality or declaration of our products, insofar as they apply to the execution of the delivery at our place of business. Any deviating legal requirements at the intended place of use shall be the sole responsibility of the Buyer.

§ 3 Delivery period and delay in delivery

(1) The delivery period shall be agreed individually or specified by us upon acceptance of the order. If this is not the case, the delivery period for goods in stock shall be 4 weeks from conclusion of the contract.

(2) If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (non-availability of the service), we shall inform the Buyer of this immediately and at the same time inform the Buyer of the expected new delivery deadline. If the service is also not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part; we shall immediately reimburse any consideration already paid by the Buyer. Non-availability of the service shall be deemed to exist, for example, in the event of late delivery by our suppliers, if we have concluded a sufficient agreement on our own supply ("congruent covering transaction"), in the event of other disruptions in the supply chain, for example due to force majeure or if we are not obliged to procure in individual cases.

(3) The occurrence of our default in delivery shall be determined in accordance with the statutory provisions. In any case, however, a reminder by the Buyer is required.

(4) The rights of the Buyer pursuant to § 8 of these GTC and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent fulfilment), shall remain unaffected.

§ 4 Delivery, transfer of risk, acceptance, default of acceptance

(1) Delivery shall be ex warehouse, which is also the place of fulfilment for the delivery and any subsequent fulfilment. At the Buyer's request and expense, the goods shall be dispatched to another destination (sale to destination). Unless otherwise agreed, we shall be entitled to determine the type of dispatch (in particular transport company, dispatch route, packaging) ourselves.

(2) The risk of accidental loss and accidental deterioration of the goods shall pass to the Buyer at the latest upon handover. In the case of sale by despatch, however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall already pass upon delivery of the goods to the forwarding agent, the carrier or the person or institution otherwise designated to carry out the despatch. If acceptance has been agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply accordingly to an agreed acceptance. If the Buyer is in default of acceptance, this shall be deemed equivalent to handover or acceptance.

(3) If the Buyer is in default of acceptance, fails to co-operate or if our delivery is delayed for other reasons for which the Buyer is responsible, we shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). Our further claims and rights remain unaffected.

§ 5 Prices and terms of payment

(1) Unless otherwise agreed in individual cases, our prices valid at the time of the conclusion of the contract shall apply ex warehouse plus statutory VAT.

(2) In the case of sale by dispatch, the Buyer shall bear the transportation costs ex warehouse and the costs of any transportation insurance requested by the Buyer. Any customs duties, fees, taxes and other public charges shall be borne by the Buyer.

(3) Unless otherwise stated in the invoice, the purchase price shall be due and payable within 14 days of the invoice and delivery or acceptance of the goods. However, we are authorized at any time, even within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. We will declare a corresponding reservation at the latest with the order confirmation.

(4) The Buyer shall be in default upon expiry of the aforementioned payment period. During the period of default, interest on the purchase price will be charged at the applicable statutory rate. We reserve the right to claim further damages caused by default. Our claim for interest on arrears (§ 353 HGB) against merchants remains unaffected.

(5) The Buyer shall only be entitled to set-off or retention rights if his claim has been legally established or is undisputed.

(6) If, after the conclusion of the contract, it becomes apparent that our claim to the purchase price is jeopardized by the Buyer's inability to pay (e.g. by an application for the opening of insolvency proceedings or by default in the payment of other claims to which we are entitled against the Buyer), we shall be entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to withdraw from the contract. In the case of contracts for the manufacture of non-fungible goods (customized products), we may declare our withdrawal immediately; the statutory provisions on the dispensability of setting a deadline shall remain unaffected.

§ 6 Retention of title

(1) We reserve title to the goods sold until full payment of all our present and future claims arising from the purchase contract and an ongoing business relationship (secured claims).

(2) The reserved goods may not be pledged to third parties or transferred by way of security until the secured claims have been paid in full. The buyer must inform us immediately in writing if an application is made to open insolvency proceedings or if third parties have access to the goods belonging to us (e.g. seizure).

(3) In case of breach of contract by the Buyer, in particular in case of non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand the return of the goods on the basis of the retention of title. The demand for the return of the goods does not simultaneously include the declaration of rescission; rather, we are entitled to demand the return of the goods only and reserve the right to rescind the contract. If the buyer does not pay the purchase price due, we can only assert these rights if we have previously set the buyer a reasonable deadline for payment without success or if the setting of such a deadline is dispensable according to the statutory provisions.

(4) Until revoked in accordance with (c) below, the Buyer shall be authorized to resell and/or process the reserved goods in the ordinary course of business. In this case, the following provisions shall apply in addition.

(a) The retention of title shall extend to the full value of the products resulting from the processing, mixing or combination of our goods, whereby we shall be deemed to be the manufacturer. If, in the case of processing, mixing or combining with goods of third parties, their title remains, we shall acquire co-ownership in the ratio of the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.

(b) The Buyer hereby assigns to us by way of security all claims against third parties arising from the resale of the goods or product in full or in the amount of our possible co-ownership share pursuant to the preceding paragraph. We accept this assignment. The Buyer's obligations set out in paragraph 2 shall also apply to the assigned claims.

(c) The Buyer shall remain authorised to collect the claim in addition to us. We undertake not to collect the claim as long as the buyer fulfils his payment obligations to us, there is no deficiency in his ability to pay and we do not assert the retention of title by exercising a right in accordance with paragraph 3. If this is the case, however, we can demand that the buyer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. In this case, we shall also be entitled to revoke the Buyer's authorisation to resell and process the goods subject to retention of title.

(d) If the realisable value of the securities exceeds our claims by more than 10%, we shall release securities of our choice at the Buyer's request.

§ 7 Warranty Claims and Duty of Care of the Buyer

(1) The statutory provisions shall apply to the Buyer's rights in the event of material defects and defects in title (including incorrect and short delivery as well as improper assembly or defective instructions), unless otherwise provided below. In any case, the statutory provisions on the sale of consumer goods and the rights of the Buyer arising from separately issued guarantees, in particular those of the manufacturer, shall remain unaffected.

(2) Our liability for defects is based in particular on the agreements made regarding the quality and intended use of the goods (including accessories and instructions). All product descriptions and manufacturer's specifications which are the subject of the individual contract or which we have published at the time of the conclusion of the contract (in particular in catalogues or on our Internet homepage) shall be deemed to be an agreement as to condition in this sense. If the condition has not been agreed, the assessment of the existence of a defect shall be based on the statutory provisions. Public statements made by or on behalf of the manufacturer, in particular in advertising or in the marking of the goods, shall take precedence over statements made by other third parties in this respect.

(3) In principle, we shall not be liable for defects known to the Buyer at the time of conclusion of the contract or not known to the Buyer due to gross negligence. Warranty claims of the buyer further require that he has complied with his statutory duties of inspection and complaint (§§ 377, 381 HGB). In the case of building materials and other goods intended for installation or other further processing, the inspection must take place immediately before processing. If a defect is discovered at the time of delivery, inspection or later, we must be notified in writing without delay, in any event within 7 working days of delivery in the case of obvious defects, and within the same period of time of discovery in the case of defects which are not identifiable at the time of inspection. If the Buyer fails to carry out the proper inspection and/or notification of defects, our liability for the defect not notified, not notified in time or not notified properly shall be excluded in accordance with the statutory provisions. In the case of goods intended for installation, assembly or erection, this shall also apply if the defect only becomes apparent after such processing as a result of a breach of one of these obligations; in this case, the Buyer shall in particular not be entitled to claim compensation for the corresponding costs ("dismantling and installation costs").

(4) If the delivered item is defective, we may initially choose whether we provide subsequent performance by remedying the defect (subsequent improvement) or by delivering a defect-free item (replacement delivery). If the type of subsequent performance chosen by us is unreasonable for the customer in the individual case, he may refuse it. Our right to refuse subsequent performance under the statutory conditions remains unaffected.

(5) We are entitled to make the subsequent performance owed dependent on the payment of the purchase price due by the Buyer. However, the Buyer shall be entitled to withhold a reasonable part of the purchase price in proportion to the defect.

(6) The Buyer shall grant us the necessary time and opportunity for the subsequent performance owed, in particular to hand over the rejected goods for inspection. In the event of a replacement delivery, the Buyer shall, upon our request, return the defective item to us in accordance with the statutory provisions; the Buyer shall not be entitled to claim restitution. Our subsequent performance shall not include the disassembly, removal or dismantling of the defective item or the assembly, attachment or installation of a defect-free item if we were not originally obliged to perform these services.

(7) We shall bear or reimburse the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, work and material costs and, if applicable, dismantling and installation costs, in accordance with the statutory provisions and these GTC, if a defect actually exists. Otherwise, we shall be entitled to demand compensation from the Buyer for the costs incurred as a result of the unjustified request to remedy the defect, if the Buyer knew or should have known that there was in fact no defect.

(8) In urgent cases, e.g. if operational safety is endangered or to prevent disproportionately large damage, the Buyer shall have the right to remedy the defect himself and to demand compensation from us for the expenses objectively necessary for this purpose. Such self-remedy must be notified to us immediately, if possible in advance. The right to self-remedy does not exist if we would be entitled to refuse subsequent performance in accordance with the statutory provisions.

(9) If a reasonable grace period to be set by the Buyer for subsequent performance has expired unsuccessfully or is dispensable according to the statutory provisions, the Buyer may withdraw from the contract or reduce the purchase price according to the statutory provisions. However, the Buyer shall not be entitled to withdraw from the contract if the defect is only insignificant.

(10) Claims of the Buyer for reimbursement of expenses pursuant to § 445a (1) BGB shall be excluded unless the last contract in the delivery chain is a purchase of consumer goods (§§ 478, 474 BGB) or a consumer contract for the delivery of digital products. Claims of the Buyer for damages or compensation for futile expenses shall only exist in accordance with the following §§ 8 and 9, even if the goods are defective.

(11) The Buyer shall be solely responsible for the proper, safe and lawful use, handling, storage and processing of the products delivered by us. The Buyer undertakes to carry out all necessary safety checks prior to use, to comply with the applicable safety regulations and legal and security provisions and to take all necessary protective measures. The Buyer shall immediately notify us in writing of any problems, incidents, damages or safety incidents in connection with the delivered products.

The Buyer shall indemnify us against all costs, damages, claims, demands and liability risks arising from or in connection with the improper use, handling or processing of the products. This includes, but is not limited to, personal injury, property damage and financial loss, as well as all related legal prosecution and defense costs.

§ 8 Other liability

(1) Unless otherwise provided in these Terms and Conditions, including the following provisions, we shall be liable for breach of contractual and non-contractual obligations in accordance with the statutory provisions.

(2) We shall be liable for damages - regardless of the legal basis - within the scope of fault-based liability in the event of intent and gross negligence. In the event of simple negligence, we shall only be liable, subject to the statutory limitations of liability (e.g. due care and diligence; minor breach of duty), for

a) for damages resulting from injury to life, body or health

b) for damages resulting from the breach of a material contractual obligation (obligation whose fulfillment is essential to the proper execution of the contract and on whose fulfillment the contractual partner regularly relies and may rely); in this case, however, our liability shall be limited to compensation for the foreseeable, typically occurring damage.

(3) The limitations of liability resulting from paragraph 2 shall also apply to third parties and in the event of breaches of duty by persons (also in their favor) for which we are responsible according to statutory provisions. They shall not apply if a defect has been fraudulently concealed or a guarantee for the quality of the goods has been assumed and for claims of the Buyer under the Product Liability Act.

(4) The Buyer may only withdraw from or cancel the contract due to a breach of duty that does not consist of a defect if we are responsible for the breach of duty. An unrestricted right of rescission on the part of the Buyer (in particular pursuant to §§ 650, 648 BGB) is excluded. In all other respects, the statutory provisions and legal consequences shall apply.

(5) The foregoing limitations and exclusions of liability shall also apply in favor of our legal representatives, executive bodies and vicarious agents if claims are asserted directly against them and, mutatis mutandis, for claims for reimbursement of expenses.

§ 9 Statute of limitations

(1) Notwithstanding the statutory provisions, the general limitation period for claims arising from defects of quality or title shall be one year from delivery. If acceptance has been agreed, the limitation period shall commence upon acceptance.

(2) If the goods are goods which, in accordance with their customary use, have been used for a building and have caused its defectiveness (building material), the limitation period shall be 5 years from delivery in accordance with the statutory provisions. Further special statutory provisions on the limitation period (in particular § 438 Para. 1 No. 1, Para. 3, §§ 444, 445b BGB) shall also remain unaffected.

(3) The foregoing limitation periods of the law of sales shall also apply to contractual and extra-contractual claims for damages of the Buyer based on a defect of the goods, unless the application of the regular statutory limitation period would lead to a shorter limitation period in the individual case. The Buyer's claims for damages pursuant to § 8 para. 2 sentence 1 and sentence 2 (a) and pursuant to the Product Liability Act shall be subject to the statutory limitation periods only.

§ 10 Data protection and information

(1) We process personal data of the buyer or the responsible contact person at the buyer in particular for the purpose of processing the contracts concluded with the buyer, for the fulfillment of our legal obligations and for the proper documentation and maintenance of the customer relationship. In doing so, we comply with the statutory provisions and provide information in accordance with Art. 13/14 GDPR. The Buyer shall make the information provided by us available to the respective contact persons involved in the customer relationship with us.

(2) The parties are obliged to treat all confidential information and business secrets obtained within the framework of the contractual relationship as confidential, in particular not to pass them on to third parties or to utilize them for any purpose other than contractual purposes. The fulfillment of legal obligations of the parties remains unaffected by this. Confidential information is information that a reasonable third party would consider worthy of protection or that is labelled as confidential; this may also be information that becomes known during an oral presentation or meeting. The confidentiality obligation does not apply to information that is already lawfully known to the parties or becomes known outside the contract without breach of a confidentiality obligation.

§ 11 Choice of law and place of jurisdiction; language

(1) The law of the Federal Republic of Germany shall apply to these GTC and the contractual relationship between us and the Buyer, to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

(2) These General Terms and Conditions are provided in English for convenience only. In case of any discrepancies, conflicts, or ambiguities between the English translation and the German original version, the German version shall prevail and be binding. The German version constitutes the sole authoritative and legally binding text. Any interpretation or legal proceedings shall be based exclusively on the German version of these General Terms and Conditions.

(3) If the Buyer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive - also international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office in Langen. The same applies if the buyer is an entrepreneur within the meaning of § 14 BGB. However, in all cases we shall also be entitled to bring an action at the place of fulfillment of the delivery obligation in accordance with these GTC or an overriding individual agreement or at the Buyer's general place of jurisdiction. Overriding statutory provisions, in particular regarding exclusive jurisdiction, shall remain unaffected.

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