

General Terms and Conditions of Sale and Delivery of XINOMER AG

The English version of this document is only a non-binding translation of the German version. The German version takes precedence in any case.

§ 1 General

The buyer acknowledges the General Terms and Conditions of Sale and Delivery, which in their currently valid version form the basis for all present and future contracts of the buyer with XINOMER AG (seller).

Any terms and conditions to the contrary shall only be deemed to have been agreed if their validity has been confirmed by us in writing.

Deliveries are made only based on the following conditions, which the buyer accepts with his order.

§ 2 Conclusion of contract

Offers on our part are subject to change. The price quotations and technical specifications in our price lists and brochures are not binding.

The contract shall be concluded by our written order confirmation. Our invoice shall also be deemed to be an order confirmation. The relevant date is the date of the order confirmation or the invoice.

An order shall only be deemed to have been accepted when our written confirmation has been issued. If the Buyer requests delivery at short notice without our written confirmation and we agree to this, the Buyer agrees that the invoice together with these General Terms and Conditions of Sale and Delivery shall be the basis of the contract.

§ 3 Offers and prices

Offers are subject to change regarding price, quantity, delivery time and delivery possibility.

Our prices are always ex works (EXW) and do not include the statutory value added tax. The Buyer shall be responsible for unloading, even if delivery is made free destination (DAP). Abbreviations corresponding to Incoterms 2020.

Our offers and prices are generally valid for 30 days, unless otherwise contractually agreed.

§ 4 Payment

Payment shall be made within 30 days without deduction, unless otherwise agreed.

After expiration of the payment period, default occurs even without a reminder and default interest in the amount of 5% is owed.

If a buyer is more than 60 days in arrears, all outstanding debts shall become due for payment within 10 days, even if the individual payment terms have not yet expired.

Rebates and discounts are only valid if the buyer adheres to the payment terms. Otherwise, rebates and discounts may be withdrawn, and the claim may be pursued in full.

The buyer is not entitled to set off claims against asserted or stated counterclaims.

Knowledge of an unfavourable financial situation of the Buyer, entitles the Seller to demand immediate payment of all outstanding claims.

§ 5 Delivery periods

Delivery periods are given to the best of our knowledge, but are non-binding and subject to correct and timely delivery by our suppliers. Delivery periods stated on price lists or in brochures or verbally are non-binding. Only the written order confirmation is authoritative.

In the absence of an express agreement to the contrary, partial shipments or partial deliveries shall be permitted and shall be deemed a special transaction regarding invoicing.

Quantity deviations of up to 10%, calculated on the total delivery quantity and not on the individual partial delivery quantities, are permissible.

The day of delivery shall be the day on which the goods leave the factory or a warehouse and, if this day cannot be determined, the day on which they are made available to the Buyer.

If the buyer is in arrears with a liability or his solvency is at risk, we are entitled to withhold further deliveries. Our further claims remain unaffected.

We undertake to inform the purchaser immediately in the event of delays in relation to contractually agreed delivery periods. The buyer may then set a reasonable grace period for delivery. The Buyer shall not be entitled to claim damages or termination of the contract due to delayed delivery. In the event of a delay in delivery for which the Buyer is responsible, damages shall be limited to 10% of the invoice value.

Strikes, force majeure, riots, sovereign acts, and significant operational disruptions for which we or our suppliers are not responsible shall release the Seller from the obligation to deliver for the duration of the disruption and to the extent of its impact. If delivery is not possible for a period longer than one month, the parties shall agree on the further procedure. The delay in delivery shall not entitle the Buyer to claim damages.

§ 6 Retention of title

The goods shall remain the property of the Vendor until payment has been made in full.

The Seller shall be entitled to demand the return of the reserved goods from the Buyer without setting a grace period and without withdrawing from the contract if the Buyer is in default of fulfilling its obligations towards the Seller. The taking back of the reserved goods shall only constitute a withdrawal from the contract if the Seller expressly declares this in writing.

If our goods are processed by the buyer, we shall be deemed to be the manufacturer and shall acquire ownership of the newly created goods. If our goods are processed, mixed, or combined with other materials, we shall acquire co-ownership in the ratio of the invoice value of our goods to that of the other materials. In such cases, the buyer shall be deemed to be the custodian for us.

The Buyer shall be entitled to dispose of the goods subject to retention of title in the ordinary course of business as long as he fulfils his obligation towards the Seller in due time. In the event of resale of our goods or of goods to which we are entitled to co-ownership rights, the Buyer shall assign all claims arising from the resale already upon our order confirmation. The buyer shall be authorized to include the claim as long as he meets his payment obligations to the seller.

If the realization of the Seller's claims appears to be at risk, the Buyer shall, upon request, inform his customers of the assignment of his claim and provide the Seller with all necessary information and documents. The Buyer shall notify the Seller immediately of any third-party access to the reserved goods and assigned claims.

7 Warranty

All information about suitability, processing and application of the products sold, technical advice and other information are given to the best of our knowledge, but do not exempt the buyer from his own tests and trials, for advice we assume no liability.

Application of the advice, use and processing of the products are beyond the control of the seller and are therefore the exclusive responsibility of the buyer.

The warranty period is 6 months from delivery. The buyer must check the delivered goods immediately for material defects, wrong and defective deliveries. Notifications of defects will only be accepted if they are made immediately in writing, at the latest, however, within ten working days after the arrival of the goods. In the case of hidden defects, immediately after their discovery, but no later than six months after receipt of the goods - in writing, enclosing supporting documents. We shall be entitled to inspect the goods on our part after a notice of defect has been issued.

Our warranty obligation shall be limited to replacement delivery, rectification, or reduction at our discretion. Rejected goods may only be returned with our express consent. Any further warranty and liability, in particular for indirect and consequential damages such as loss of profit, unrealized savings or third-party claims, in particular also caused by our bodies, employees or auxiliary persons employed, is excluded to the extent permitted by law.

The Buyer shall procure import or marketing permits at its own expense and risk. The Buyer shall be responsible for import restrictions and other official orders.

§ 8 Applicable law, place of jurisdiction

The place of performance for all obligations shall be the registered office of the Seller.

The business relationship is subject to Swiss law/jurisdiction. For all disputes, the jurisdiction of the court responsible for the registered office of the seller is agreed.

If individual clauses or parts of the above clauses are invalid, the rest of the terms and conditions of sale and delivery shall remain valid and the invalid provision shall be replaced by the statutory provision or such provision as the contracting parties would have permissibly made in good faith if they had been aware of the invalidity.

These terms and conditions are a non-binding translation of the German AGB of Xinomer AG. In case of any dispute or differences, the content of the German version is decisive.

Cham, March 2024

XINOMER AG