



General sales, delivery and payment conditions

I. General

1. The following conditions are valid for all offers, sales, deliveries and works of TAVAPAN SA (seller) and become part of the contract. Alterations or completions need, even if they should be agreed, for their efficacy a written confirmation by the seller.
2. Opposite, contrary or completing conditions, even if told by the buyer to be his existing business conditions, do not bind the seller. His acquiescence opposite to such conditions does not mean their recognition or consent. If the seller's conditions have not been sent with the offer to the buyer, or have they not been given him on another occasion, they however are valid if the buyer knew them or must know them from his earlier business relation with the seller.
3. If not explicitly agreed anything else, only the Swiss law is valid, under exclusion of any foreign laws. The rules and regulations of the United Nations dated 11.04.1980 – contracts for the international purchase of goods (UN purchase right) – are used only so far as their use is cogently presented (art. 12 of the UN purchase right).
4. As far as it depends for the assertion of seller's claims based on the law or this contract on the access of the seller to the buyer, it is sufficient that the seller proves that he has sent on the ordinary mail route a declaration addressed to the buyer.



IV. Credit-worthiness

1. On acceptance of orders the credit-worthiness of the buyer is required.
2. Is this requirement not given on the conclusion of contract or does it cease thereafter, the seller can cancel the contract with immediate effect, i.e. without giving a new term, or ask for immediate payment, also when drafts were given.
3. Failing credit-worthiness is imputed among others when the buyer is delayed with the payment of an earlier delivery. It is given as soon as an application to open a declaration of insolvency or an appropriate procedure has been filed.
4. If for a buyer which is first under insurance protection at the seller's credit insurance the insurance protection is cancelled after acceptance of the order respectively. conclusion of the contract, the seller can refuse the work due till the return service has been effected by the buyer or a security has been produced for it. This is, of course, valid also when the buyer is put to procedures of civil, public, executive or penal laws, as denunciations, civil actions, legal actions, pledge evaluation demands, demand for declaration of insolvency or assets.

V. Prices

The prices are understood net, without packing, ex delivery work. The value added tax is not included in the prices.



VI. Delivery time

1. If not a fix, calendar conform delivery term is explicitly promised and confirmed in a written form by the seller, the delivery terms are to be understood as not binding.
2. At not binding delivery terms a delivery within one week after the delivery time told is in any case to be understood as still in time.
3. Cases of superior force, traffic and operation disturbances, strikes, locking-outs, unforeseeable lacks of workers, energy, raw material or expedients and such will result in an appropriate extension of the delivery term. If for reason of such disturbances the delivery time will be exceeded by more than 10 weeks, both parties have the right to resign from the contract.
4. On an eventual delivery delay, as far as it is not caused intentionally or by serious negligence, claims for indemnification in any kind are excluded.

VII. Packing

Packing material is invoiced separately. For reusable pallets a credit note will be given after their ordinary return.

VIII. Transport

1. The transport is made on the account of the buyer. On loading the goods the risk of damage changes over to him, also when freightfree delivery disagreed and/or the transport is made with seller's own vehicles. The seller is not obliged to sign any transport insurance. Partial deliveries are allowed and a invoiced individually.

IX. Payment, payment terms

1. Invoices are, if not agreed otherwise in written form, payable within 30 days after date of invoice, without any deduction.
2. If the buyer is delayed with a payment (non-payment in spite of maturity and reminder), all his payment duties from the business relation with the seller – also where given any drafts – are due immediately. The seller has furthermore the right to withdraw from contracts which are not fulfilled yet from his side, after having allowed an additional term of 7 days to fulfil the due payment obligations and having threatened with a cancellation. If the payment term after invoice date is exceeded, interests in the amount of the credit costs of the seller, but at least in the amount of 5% higher than the discount rate of the Swiss National Bank, can be invoiced. Further claims from delay in payment remain untouched.
3. Drafts are accepted for fulfilment only after previous agreement and on discount-worthiness without granting any reduction. Also payments in the cheque/draft procedure are accepted only for fulfilment. The purchase price claim expires only after complete redemption of the drafts. Draft and discount fees are invoiced separately and payable immediately without any deduction.
4. A right form clearing exists only for uncontested or non-appealably determined claims.

X. Reserve of ownership

1. If goods are delivered to Germany the regulations of this paragraph are subject to German law and the following regulations numbers 2 to 11 except number 3 are valid.

If goods are not delivered to Germany the regulations of this paragraph are subject to Swiss law and the following regulations numbers 2 to 11 except numbers 7, 8 and 11 are valid.

2. The goods delivered pass to the buyer's ownership only when he has fulfilled his entire obligations out of the business relation with the seller, incl. additional claims, indemnities and payment of cheques and drafts.

In case of the cheque/draft procedure the reserve of ownership in all is herein mentioned forms does not expire already on payment of cheque, but only when draft will be paid. The seller can enter the reserve of ownership without assistance of the buyer at the competent register of ownership reserve; the buyer gives by his signature which is competent for the conclusion of the contract his agreement in the sense of art. 4 decree of the federal court concerning the registration of the reserve of ownership. In case of a change of domicile of the buyer he is obliged to inform the seller immediately of his dislocation.

3. The buyer is obliged to store carefully the goods under reserve of ownership, to maintain them on his own costs and to insure them in a frame which can be expected by a careful merchant on his own costs against theft, damage and destruction. The buyer cedes his claims out of the insurance contracts to the seller and agrees in the payment to the seller. On demand of the seller the buyer hands out to the seller the insurance policies for assertion of insurance benefits.
4. As long as the buyer fulfils regularly his obligations opposite to the seller, he has the right to dispose in the ordinary business way on the goods under reserve. This however is not the case if and as far as between the buyer and his customers a prohibition for cession with regard to the purchase price claim is agreed. The buyer is not allowed to effect mortgagings, security transcriptions, cessions in any kind or other charges on the goods under reserve. On resale the buyer has to make the ownership transfer dependent on the full payment of the goods by his customers.

5. The seller has the right to demand without extension of term and without resignation from the contract the goods under reserve back from the buyer, if the buyer is delayed with the fulfilment of his duty opposite to the seller in one of the signed contracts. In the recalling of the goods under reserve there is a resignation from the contract only when the seller has declared this explicitly in written form. The costs for recall are at the charge of the buyer. The seller has the right to sell the goods under reserve taken back by auction or off-hand and to account the profit to his claims. Furthermore he can, without allowing an extension of term, fully or partially resign from the contract, whereby the buyer is liable for costs and an eventual depreciation of the goods.
6. The rights from § 48 insolvency rules remain untouched by the regulation of No 6 above.
7. In case of processing of the goods under reserve the buyer becomes active for the seller, however without acquiring any claims for processing opposite to the seller. The reserve of ownership is thus also extended to the products arising from processing. If the goods under reserve are processed together with other goods being under ownership of thirds, or if the goods under reserve are mixed or connected with goods being under ownership of thirds, then the seller acquires co-ownership on the products arising thereof in the proportion invoice value of goods under reserve to invoice value of goods being under ownership of thirds. If the connection or mixture is made with a main thing of the buyer, then the buyer cedes already now his rights of ownership on the new object to the seller.
8. The buyer cedes hereby to the seller all claims with all separate and security rights incl. draft and cheque claims and balance claims resulting from a resale of the goods under reserve in advance to ensure all claims arising for the seller opposite to the buyer from the business relation.

If goods under reserve are sold together with other things at a total price, then the cession is limited to the share amount of the invoice of the seller for the simultaneously sold goods under reserve. If goods are sold on which the seller has an ownership share according to the above, the cession is limited to that part of the claim which corresponds with the ownership share of the seller.

If the buyer uses the goods under reserve for refinement against payment of things under ownership of a third, then he cedes hereby in advance for the before mentioned security purpose his payment claims opposite to the third to the seller.

As long as the buyer fulfils his payment duties within the terms, he has the right to cash his claims from a resale or a refinement himself.

For mortgagings and cessions of any kind he is not authorized.

9. If it seems possible to the seller that the realization of his claims is in danger, the buyer has on demand to inform his customers of the cessions and to give the seller all informations and documents needed. The costs of an action of intervention on encroachment of thirds on the goods under reserve to be represented by the buyer are carried by the buyer.
10. If the value of the securities in favour of the seller exceeds the claims to be secured of the seller opposite to the buyer by more than 20%, then the seller is on demand of the buyer insofar obliged to release securities. The selection of the securities to be released is made by the seller.

XI. Guarantee

1. Obvious faults are to censure immediately but latest within 1 week after arrival of the goods at destination and before their treatment or processing. The duty for examination of the buyer includes the whole delivery. In spite of eventual faults the goods are to accept and to stock properly.
2. Faults being not obvious have to be reported immediately but latest within 1 week after their disclosure. The prove that it is a hidden fault must be furnished by the buyer.
3. Each censure of faults must be made in written form and if possible documentated by a photo, under statement of the asserted, particular faults.
4. The seller has to be given the opportunity to see the censured goods. If a fault is proved, the seller performs mending orsupplies faultfree goods against return of the censured ones. After failed mending or replacement the buyer has the right to reduce the purchase price or, building performances excepted, to demand the purchase price step by step against return of the goods.

XII. Liability

1. The liability of the seller is excluded in the legally allowed extent, in particular for additional helpers each liability is declined (art. 101 para. 2 LO).
2. The above exclusion of liability is valid also for eventual advising performances of the seller before, during or at conclusion of the contract.
3. Eventual claims become invalid latest at the time of beginning of prescription of the respective performance.



XIII. Place of fulfilment

The place of fulfilment for payment is Tavannes, for deliveries the place of dispatch.

XIV. Data processing

The buyer agrees that the seller **memorizes** the datas got in connection with the business relation and **possibly adapts them in connection with the conclusion of contracts or the business relations.**

XV. Right to be used, place of jurisdiction

1. With reference to the right to be used there is to refer to cipher I number 3 as well as number IX.
2. As the exclusive place of jurisdiction the parties agree the domicile of the seller in **2710 Tavannes**, whereby the seller is granted the right to assert his claims also at the domicile of the buyer or each other competent authority.

XVI. Effectiveness

Should particular clauses of these sales, delivery and payment conditions fully or partially be invalid, this does not touch the effectiveness of all other clauses resp. the remaining parts of such clauses. An ineffective regulation has to be replaced by the parties by a regulation which is coming next to the economy purpose of the ineffective regulation and is effective.

Tavannes, February 2006-04-01

TAVAPAN SA