

# GENERAL TERMS & CONDITIONS OF KABEL PREMIUM PULP & PAPER GMBH

## 1. GENERAL/ORDER

(a) The following general Terms and Conditions are a part of all deliveries and services provided by Kabel Premium Pulp & Paper GmbH (hereinafter also referred to as "KABEL").

(b) By placing an order for KABEL products by fax, e-mail, telephone or the Internet, the orderer expressly agrees to the content of these general Terms and Conditions and confirms knowledge thereof.

(c) Unless the seller and purchaser have expressly agreed otherwise in writing, these General Terms and Conditions shall apply in their entirety.

These General Terms and Conditions apply exclusively, any terms of the purchaser or that conflict with or deviate from these General Terms and Conditions are not recognised, unless the seller has expressly consented to their applicability in writing.

These General Terms and Conditions shall also apply when the seller performs delivery to the purchaser without restriction in awareness in some terms and conditions of the purchaser conflicting with or deviating from these General Terms and Conditions.

(d) KABEL reserves the right to amend these General Terms and Conditions at any time if and insofar as this is necessary for some appropriate reasons, in particular due to change in the legal situation or supreme court adjudication, technical changes or further developments, new organisational requirements of mass transportation, regulatory gaps emerging in the General Terms and Conditions, a change in the market situation or some other reasons of equal importance and the customer is thereby not unreasonably disadvantaged. Amendments to the General Terms and Conditions shall be announced to the customer in writing or by e-mail at least six weeks before they come into force. The changes shall become effective if the customer has not filed objection in writing or by e-mail within this set period of six weeks (commencing after delivery of the notification of change) and KABEL has drawn the customer's attention to these legal consequences in the notification of change.

(e) KABEL's offers are non-binding and are based – unless a different offer is expressly formulated – on the relevant KABEL price list valid at the time. With issue of the latest current price list, all former issues are no longer valid. The prices applicable on the day of delivery shall be charged. We always reserve the right of prior sale until an order is accepted. Obligations arise only with our written order confirmation, in particular in the case of agreements and ancillary arrangements with our agents. Our offer is based on the wage rates applicable today and the current market prices for all materials to be used in executing the order.

(f) Only on the basis of a binding order with specified time of delivery will KABEL reserve the requested delivery quantities, if available.

(g) **Cancellation or change to an order is possible only until the point of final production release.** After an order is placed and before the final production, KABEL shall in the case of cancellations/changes to orders for standard and/or manufactured articles charge a processing fee equivalent to 15 % of the order value.

(h) The delivery costs offered the customer assume – unless otherwise agreed – an unloading time of two hours. For every further commenced hour, KABEL shall charge a further € 75.00 plus Value Added Tax.

(i) Delivery / collection shall be from Monday to Friday. If the customer requests delivery on a Saturday, Sunday or public holiday, this shall require a special agreement with Kabel. The resulting extra costs shall be borne by the customer.

(j) KABEL shall notify the customer after receipt of the order the relevant planned means of transport (by sea, road, rail, air) and the transport service provider. Any extra costs meeting customer requests for some changes to these plans shall be borne by the customer.

(k) The purchaser shall be entitled to notify KABEL of a change in the designated destination up to two days before the originally agreed delivery date at the latest. In the event of a change, it shall no longer be possible, unless otherwise managed by KABEL in some exceptional case, to split the consignment among different destinations. Any extra costs arising from a subsequent change in destination shall be borne by the customer.

## 2. WEIGHT

Unless otherwise indicated, a tonne (or the abbreviation "t") refers to 1.000 kilograms.

## 3. DELIVERY QUANTITY

(a) The delivered quantity is determined according to the weight at the time of manufacture and packing of the products and is expressed in weight. For rolls and sheets packed in bulk packs, the weight is

determined gross for net – wrapping material, sleeves and plugs are included for rolls and the wrapping material for sheets.

In the case of counted sheet paper packed in reams, the weight corresponds to the net weight as defined in clause 4 (a).

The delivered quantity forms the basis for determining the amount to be paid by the purchaser, as well as for any finding that the quantity deviates from the contractually agreed quantity such that the purchase cannot be considered to be in line with the contract.

In the case of deviations in surface weight or in size that go beyond the tolerances indicated in clauses 4 and 5, the purchaser shall reserve the rights pursuant to clause 6 in every case.

(b) KABEL shall in all cases arrange the requested delivery quantities on the trucks available up to their maximum load capacity and then delivered. If the customer requests in some individual case some other arrangement of the delivery on several trucks, the feasibility of the request will first be examined by KABEL. Any extra costs for an individual arrangement request shall be borne by the customer.

## 4. QUANTITY TOLERANCES

An order for paper outside the seller's normal stock range shall be considered contractually fulfilled if the seller delivery to the purchaser goods that deviate from the contractually agreed quantity by no more than tolerances indicated below.

If a delivery comprises several parties, as defined in clause 4 (a), each party shall be treated separately.

For surface weights up to and including 100 g/m<sup>2</sup>

<u>Agreement quantity</u>	<u>Admissible deviation</u>
Less than 1 t	± 15.0 %
1 t to less than 5 t	± 10.0 %
5 t to less than 10 t	± 7.5 %
10 t to less than 100 t	± 5.0 %
from 100 t	± 3.0 %
from 1.000 t	± 1.5 %

The deviations indicated shall be doubled in a downward or upward direction if the purchaser has specified a maximum or minimum weight without any spread for excess or sub-quantities.

## 5. TOLERANCES FOR SURFACE WEIGHT

### (a) Definition of terms

*Delivery* refers to: the total quantity of goods coming under one agreement and delivered at one time.

*Party* refers to: one or more units of paper of the same type and with specific characteristics, that are produced by one and the same factory and are delivered at one and the same time.

*Unit* refers to: a roll, a bale, a pallet, a packet or some other transport packaging.

*Surface weight* refers to: the weight in grams per square metre of paper.

*Ordered surface weight* refers to: the surface weight indicated in the agreement.

*Actual surface weight* of a party of paper is the arithmetic mean of the surface weight, determined by random sample testing of the party according to recognised standard methods, such as ISO 186, SCAN-P 6:75 or ISO 536. In the case of newsprint, wood-containing printing paper, liners and fluting, the actual surface weight is, however, calculated according to the humidity content of these products at the time of manufacture.

*Net weight* for a delivery of sheets refers to: the delivered number of sheets x their contractually agreed surface x the contractually agreed surface weight.

*Tolerance* means in the context of surface weight: the admissible difference between the ordered and the actual surface weight, expressed in percentage of the ordered surface weight.

### (b) Specifications

A party of paper shall be considered duly delivered with regard to the surface weight if

- (1) the actual surface weight in relation to the ordered surface weight remains within the tolerances indicated in the following Table A for paper and
- (2) the test values for individual units in relation to the ordered surface weight remain within the tolerances indicated below in the tables for one ton.

If a delivery comprises two or more parties, the actual surface weight for each party is to be determined separately.

**(c) Table A: Tolerances for different paper types**

Weight of party	Print and writing papers 35-80 g/m <sup>2</sup>	Creped and coated papers (%)	Other paper types (%)
(t)	(%)	(%)	(%)
1 (Minimum)	± 5.0	± 9.0	± 7.0
5	± 3.6	± 6.5	± 5.1
10	± 3.2	± 5.7	± 4.4
20	± 2.7	± 4.9	± 3.8
50	± 2.3	± 4.1	± 3.2
100	± 2.0	± 3.6	± 2.8
500	± 1.4	± 2.6	± 2.0
1.000	± 1.3	± 2.3	± 1.8
3.000	± 1.0	± 1.8	± 1.4

For paper parties in intermediate quantities, the tolerances can be calculated by means of linear interpolation.

**6. TOLERANCES IN SHEET SIDES AND ROLL WIDTHS**

A delivery of paper is considered made in line with the contract if the delivered sizes (in the case of sheets: width and length; in the case of rolls: width) do not deviate from the contractually agreed sizes by more than that indicated below:

Sheets

Uncut	± 0.4 %, but not more than ± 3 mm
Cut	± 0.2 %, but not more than ± 3 mm

Rolls (with cut edge)

< 400 mm	± 2 mm
400 mm to less than 2000 mm	± 3 mm
from 2000 mm	± 5 mm

At least 95 % of the measuring results have to be within these tolerances.

**7. COMPLAINTS**

(a) Information and data relating to the specification of the goods or a sample of goods do not constitute any guarantee of characteristics or durability, but are to be understood only as an approximate assessment of the average characteristics of the goods, unless use of the products for the intended and agreed purpose requires exact conformity.

(b) The purchaser is obliged to examine the quality of delivered goods before processing.

If the quality does not conform to that agreed in the contract or if the purchaser has reason to assume that the quality is of such a kind that it would lead to problems in processing, the purchaser may not permit processing to commence, unless he has received permission to do so from the seller in writing or by telecommunication.

If the purchaser discovers some defect in the goods during processing, he shall be obliged to notify the seller of this defect without delay by telecommunication.

(c) Quality defects that can be established from the seller's documents or on the basis of a sample provided by the seller are to be reported as a complaint by the purchaser within seven (7) days after the purchaser receives the documents or the sample in question.

Other defects in quality are to be reported by the purchaser as follows:

- (1) without delay, when the defect can be discovered by inspecting the goods or its packaging;
- (2) as soon as the defect is discovered, but at the latest within seven (7) days of discovery in the case of defects relating to surface weight, size, colour, cleanliness, firmness or other reasons that can be established by taking samples, and
- (3) otherwise within seven (7) days after discovery of the defect, if it was not possible to establish the defect by inspecting or taking samples.

If a defect has not been reported on time, any part of the delivery that has already been processed cannot then be made subject of a complaint.

(d) When reporting a defect, the purchaser is obliged to identify the individual goods in question and to indicate all facts on which his complaint is based and then to send to the seller along with the complaint or as soon as possible afterwards all documents as evidence of his complaint.

Until any dispute about the complaint has been settled, the purchaser accepts the goods and is to store them carefully and provide adequate insurance in his own interest and in the interest of the seller covering their entire value, including transport and warehouse costs.

If there are indications of transport damage, the purchaser shall be obliged to duly notify the freight carrier of the damage within the period indicated in the freight contract.

(e) If a delivered party or part thereof is not within the relevant tolerances pursuant to clauses 4 or 5 or is not, from a reasonable perspective, of a quality comparable with that of a sample provided by the seller or does not correspond to the seller's specifications, the purchaser can refuse to accept the party if the entire party is found to be faulty.

If only part of the party is faulty and if the remaining part can be used by the purchaser, the purchase is entitled to refuse to accept only the faulty part.

The purchaser is, however, not entitled to refuse acceptance for a faulty party or a faulty part of a party if it can be used, notwithstanding the defect or fault, for his normal commercial purposes.

For such parties or parts of parties, the purchaser can demand a reduction in the contract price.

(f) The seller shall report to the purchaser any complaint arising from the seller delivering to the purchaser a quantity of goods that is higher or lower than had been contractually agreed within seven (7) days of the purchaser receiving documents in which the weight of the delivered goods is indicated or confirmed.

In the case of missing quantities that can be assumed to have arising during transportation, the purchaser shall be obliged after receipt of the goods to notifying the freight carrier accordingly in the interest of both contracting parties.

(g) In the case justified notice of defects in faulty goods in the sense of section 434 I BGB (German Civil Code) being reported in time, the purchaser can first of all demand exclusively only rectification in accordance with section 439 BGB. In the case of justified complaints, we are entitled to determine the form of additional performance, taking into account the type of the defect and the justified interests of the purchaser (replacement delivery, rectification). For supplementary performance, the purchaser must grant the period determined according to equitable judgement, but at least 14 days. The replacement delivery or removal of the defect in the existing item will be provided in each case only for the parts of the delivery whose usability was impaired due to a situation occurring before transfer of risk. This obligation shall not apply if the orderer is himself responsible for the defect or had undertaken unauthorised improvements or modifications to the delivery. Statements regarding characteristics and durability of our products must have been expressly agreed as such. Characteristics of samples and models shall not be considered firm undertakings (section 454 BGB shall not apply). A reference to DIN standards etc. represents only a more detailed designation of the goods and also does not constitute a statement on characteristics.

**8. PRICES, PACKAGING COSTS**

(a) Unless otherwise agreed, prices are quoted in Euro carriage paid plus the value-added-tax due at the time of delivery.

(b) If after making an order the customer later splits it into smaller delivery quantities, KABEL shall be entitled to calculate anew the corresponding increase in transport costs and the costs for processing the order (handling) and to charge the new amounts to the purchaser accordingly.

(c) Packing materials of the normal kind, such as paper, wood, cardboard and cardboard case tubes are included in the prices pursuant to point 7 above. The costs of special packaging, such as wooden boxes, reinforced packaging for rolls, solid board packing, special sleeves, etc. shall be borne by the purchaser. Packaging materials are in principle not taken back.

**9. PAYMENT TERM, DELAY IN PAYMENT AND OWNERSHIP OF THE GOODS**

(a) KABEL bills the customer for the ordered goods – unless otherwise agreed in the individual contract – normally when the goods are handed over to the freight carrier. Payments are to be made, unless otherwise agreed, within 14 days of the invoice date without any discount.

(b) If the customer fails to meet the agreed call date, KABEL expressly reserves the right to bill the order quantity in full after a period of 10 working days after the agreed call date has expired and to charge the purchaser the normal warehouse costs for the location for any storage necessary after this date. The invoice will again in this case be due for payment due to the customer's default of acceptance (see also number 10 of these Terms) within 14 days of the invoice date. Discount shall be granted only on the basis of a written agreement. Payments shall be considered remitted only on the day on which the seller can freely dispose of the amount paid.

(c) The purchaser shall be in default if he fails to pay for the goods within the contractually agreed period. The seller has a claim to default interest on the outstanding amount at a rate of 9 percent above the relevant applicable basic interest rate for as long as the payment due is outstanding.

The about shall not prejudice the seller's right to claim higher interest and further default damages.

If the price is payable in currency other than the currency valid in the country of the seller, the seller shall also have a claim to compensation if the currency exchange rate on the date of the delayed payment is less favourable for him than on the date on which the payment was due.

The purchaser is entitled to furnish proof that he is not responsible for the default.

(c) If the purchaser is in default of payment and this default is not due to an error on the part of the transferring bank, the seller shall be entitled to withdraw from the agreement with a notice period of fourteen (14) days if the seller has still not received the due payment by then.

In the case of partial delivery agreements, this withdrawal of the seller shall apply for the part of the agreement still outstanding, at the seller's discretion also including the delivery or not including the delivery for which the purchaser is in default of payment.

If the purchaser is in default of any payment obligations in relation to the seller, all existing receivables will be due immediately. The same applies in all other cases where, after the agreement has been concluded, it becomes evident that existing claims of the seller are jeopardised due to insufficient capacity of the purchaser to make due payment. This includes dissolution or liquidation of the purchaser's company, as well as assignment of significant parts of the company's business. The purchaser can avoid the obligation to make immediate payment by providing suitable securities.

(d) The seller reserves ownership of the sales item until all payments due from the business relationship have been received.

The purchaser is obliged to treat the sales item with due care, and is obliged in particular to provide at his own cost adequate insurance for replacement value for this item against damage caused by fire, flooding and theft.

In the case of liens or other third-party rights to the sales item, the purchaser must notify the seller accordingly without delay, so that the seller is entitled to take legal action in accordance with section 771 ZPO.

The purchaser is entitled to resell the sales item as part of its normal business operations; the purchaser, however, here and now assigns to the seller all receivables to the amount of the final invoice sum (including the relevant value-added-tax due) of the seller's claim that the purchaser obtains from his customers or a third party through this resale, irrespective of whether the sales item was resold before or after any processing. The assignment is hereby accepted.

The purchaser continues to be authorised to collect these receivables after the assignment.

This shall not affect the seller's entitlement to collect the debt directly.

The seller undertakes, however, not to collect the receivables as long as the purchaser fulfils his payment obligations from the proceeds received, is not in default of payment and in particular when no application has been filed for commencement of insolvency, composition or bankruptcy proceedings and there has been no suspension of payments.

If, however, such a situation has arisen, the seller can then demand that the purchaser discloses the assigned receivables and the respective debtors, provides all information necessary for collecting the debts, along with the corresponding documents, and notify the debtors (third parties) of the assignment.

Any processing by the purchaser of the sales item is always carried out on behalf of the seller.

If the sales item is combined with other objects not belonging to the seller, the seller then acquires joint ownership of the new item in proportion to the value of the sales item (end invoice amount, including the applicable value-added-tax) in relation to the other processed items at the time processing is made.

The seller undertakes to surrender at the purchaser's request the securities due to him insofar as the realisable value of his securities exceeds the receivables to be secured by more than 10 %. The seller shall be responsible for selecting the securities to be released.

(e) If the purchaser is in default of a contractually due payment, the seller shall be entitled, after written notification of the purchaser, to withhold deliveries to be made to the purchaser in the context of the relevant agreement and all other agreements between them, until the seller receives the relevant payment.

(f) If it is established by the purchaser or by the seller that either of the parties is in a financial situation where it can be expected on the basis of a reasonable assessment that it will not be able to fulfil its obligations, the other party shall then be entitled to withdraw from the agreement if the first party has not provided a satisfactory guarantee of for its fulfilment of the agreement within ten (10) days of receiving a notification to that effect.

(g) The risks and costs involved in remitting the invoice amount shall be borne by the purchaser.

If the seller accepts bills of exchange as payment, the purchaser shall bear the bill charges and the costs of a possible discounting.

## 10. PLACE OF PERFORMANCE, DELIVERY TIME, TRANSFER OF RISK, DEFAULT IN ACCEPTANCE AND DELIVERY

(a) Place of performance for all obligations from the contractual relationship is the venue of the seller's official domicile, unless otherwise determined.

(b) Commencement of the seller's delivery obligation necessitates clarification of all technical and questions and punctual and proper fulfilment of the orderer's obligations.

We reserve the defence of non-fulfilment of the agreement.

(c) The risk is transferred to the purchaser at the latest when the delivery item is handed over (fixed as the time the loading operation commences) to the forwarder, freight carrier or other third party assigned to execute the delivery. This shall also apply when partial deliveries take place or the seller is responsible for providing other services (e.g. shipping). The transfer of risk is based on the agreed delivery date. If the purchaser is in default of acceptance, this shall be equivalent to handover or delivery. A transfer of risk will thus also be deemed effected if the purchaser is in default of acceptance and the goods are still in KABEL's warehouse.

(d) If the purchaser is in default of acceptance or if he is culpably in breach of other cooperation obligations, the seller shall be entitled to demand compensation for any damage that the seller has thereby incurred, including any extra expenses. Default of acceptance shall also arise in particular when the customer fails to call the goods ordered from KABEL. KABEL shall specifically be entitled to bill the customer for the warehouse charges arising as a result of the purchaser's default of acceptance from the time of the default of acceptance until final delivery of the products. KABEL is in particular entitled to store the goods at the purchaser's cost and demand suitable warehouse costs, even if storage is in its own warehouse. KABEL shall charge in this regard a fixed fee of € 10.00 (net) per tonne for initial storage and € 0.15 (net) per day and tonne, commencing with the agreed delivery date or – if there is no delivery date – with notification of shipping readiness. This shall not affect the right to prove a higher damage and our statutory claims (in particular indemnification for additional expenses, suitable compensation, termination of the agreement). This fixed rate shall, however, be set off against further payment claims. The purchaser is entitled to prove that KABEL incurred no or only a significantly lesser damage than the aforesaid fixed amount.

This shall not prejudice the right to assert further claims.

When a default of acceptance or debtor's default arises, the risk of accidental destruction or accidental deterioration of the sales item is transferred to the purchaser.

This clause shall also apply in the event of the customer electing to collect the delivery itself in the individual case and then a corresponding default of acceptance is established.

(e) If the seller is in default of delivery, it shall be liability according to statutory regulations,

- if the underlying sales agreement is a fixed-date transaction in the sense of section 286 (2) number 4 BGB or section 376 HGB, or
- the purchaser is able to prove that due to a default in delivery for which the seller is responsible, his interest in further fulfilment of the agreement no longer applies, or
- if the default of delivery is due to a breach of contract through wilful conduct or gross negligence for which the seller is responsible; in which case he shall also be held responsible for culpability on the part of his representatives or actuarial agents. If the default of delivery is not due to a wilful breach of contract for which the seller is responsible, his liability for damage compensation is limited to the predictable and typically occurring damages, or
- if the default of delivery for which the seller is responsible is due to a culpable infringement of a significant contractual obligation; in this case the liability for damage compensation shall be limited to the predictable and typically occurring damages. Contractual obligations that have to be fulfilled if proper execution of the agreement is even possible and compliance with which is normally, and can normally be, assumed by the contracting partner (cardinal obligation) are in principle form the basis for assessing whether an obligation is significant.

The seller shall otherwise be liable in the event of default of delivery for every complete week within the framework of a fixed-rate default compensation totalling 0.5% of the delivery value, but at most 5% of the delivery value.

(f) Unloading of the goods at the destination is carried out exclusively on behalf of the purchaser and at the purchaser's risk.

## 11. LIABILITY FOR DEFECTS AND OBLIGATION TO REDUCE DAMAGE

(a) The purchaser's claims for defects are subject to the condition that the purchaser correctly fulfilled his obligation to examine and report any defects in the goods in accordance with number 6 (b) to 6 (d) above.

**(b)** In the case of a justified complaint, the seller will accept return of the defect goods at his own cost, which the purchaser shall return to him in good condition in their original or equivalent configuration and packing.

The seller shall replace the goods subject to justified complaint without delay, in the event of a sub-quantity being delivered, the seller shall deliver the quantity required for completing the order without delay.

The seller is also obliged in this regard to bear all expenses required for remedying the defect, in particular transportation, road, work and material costs, provided these are not increased by virtue of the goods being transported to some location other than the place of performance.

This replacement delivery excludes any further compensation claim by the purchaser.

**(c)** If the seller does not provide replacement within a suitable period or if the goods delivered by way of replacement are also defect, the purchaser shall be entitled to demand reduction in price or to withdraw from the agreement.

**(d)** The seller is liable according to statutory regulations if the purchaser claims for compensation for damages due to malice aforethought or gross negligence on the part of the seller, including malice aforethought or gross negligence on the part of his representatives or actuarial agents.

If there was no wilful breach of contract by the seller, the seller's liability for damage compensation shall be limited to the predictable and typically occurring damages. KABEL's liability for contractual and non-contractual damage compensation claims on the part of the purchaser in connection with the purchase agreement are limited to the proven direct damages incurred by the purchaser (this does not include in particular loss of earnings or business expectations), but at most to an amount equivalent to the purchase price of the products to which the damage relates. KABEL is not liable for indirect damage, consequential damage, accompanying damage, punitive damages or for losses (i.e. in particular not for loss of profits, earnings or interruptions to production or loss of goodwill), which the purchaser incurs in connection with the products or the purchase agreement.

**(e)** The seller is liable according to statutory regulations, insofar as he is in culpable breach of a significant contractual obligation (cardinal obligation); in this case liability for damages is limited to the predictable and typically occurring damages.

**(f)** The above shall not prejudice the seller's liability for culpable injury to life, limb or health; this also applies for mandatory liability according to product liability law.

**(g)** The seller shall have no liability beyond the liability claims regulated herein.

**(h)** The statute of limitations for claims for defects is 12 months, calculated from the time risk is transferred; this shall not affect the limitation period in the case of a delivery regress pursuant to sections 478, 479 BGB. The above limitation period shall also not apply in the case of claims relating to culpable injury to life, limb or health, a fraudulent concealment of a defect on our part, claims relating to malice aforethought or gross negligence on the part of the seller, its legal representatives or vicarious agents, from acceptance of a guarantee or a risk of procurement risk and according to product liability law, as well as for claims due to damage from culpable infringement of a significant contractual obligation. Statutory provisions on limitation of claims shall apply in this regard.

**(i)** If a party accuses the other party of breach of contract, the accusing party shall be obliged to take all necessary measures to reduce and limit the damage resulting from that infringement, provided this is possible without unreasonable inconveniences or costs.

If the party fails to take the measures as indicated above, the other party shall be entitled to demand reduction of the damage compensation due.

## 12. GROUNDS FOR RELEASE FROM LIABILITY (FORCE MAJEURE)

**(a)** The following circumstances are considered grounds for a release from liability, provided they occur after the contract is signed or – if they occur prior to that point in time – if their effects were clearly not predictable before the contract was concluded and that prevent, hinder or delay the production for which the purchaser (or if the purchaser is a wholesaler, his customer, provided that party is also named in the agreement) intended to use the goods or acceptance of the goods by the purchaser or production or delivery by the seller with agreed means, namely:

war; risk of war; civil disturbances; blockade; seizure; embargo; conscription for military service; currency restrictions; prohibitions or restrictions on export or import; restrictions in the use of energy; industrial disputes; general shortages in labour, means of transport and materials; water shortages; fire, flooding; wind; traffic hindrances on railways; prevention of shipping by ice in seaports; loss or retention at sea; failures to deliver for reasons for which the seller is not responsible, faulty or delayed delivery by suppliers of raw materials and other goods for the seller's industrial production and all other circumstances outside the control of the parties.

**(b)** The purchaser or the seller is entitled to suspend fulfilment of this agreement for reasons of release from liability, without any party being obliged for this reason to compensate the other party for any damaged incurred as a result of such suspension. Goods that were approved by the seller and already produced or that are in the process of manufacture or are on the way from the seller's factory must now be accepted by the purchaser in every case.

**(c)** In the case of suspension of fulfilment for less than ten (10) consecutive days, the deliveries will as soon as is practically possible be resumed to fulfil the complete contract volume.

If such suspension continues for ten (10) consecutive days or longer, the delivery or the deliveries that was/were discontinued during the period of suspension can be annulled without any liability in relation to the other party. Subsequent deliveries are then to be restarted in accordance with the agreement.

**(d)** The party wishing to claim legal protection on the basis of the aforementioned circumstances shall be obliged to notify the other party in writing, for example by post, e-mail, fax, telex or cable, without delay regarding the start and the end of the circumstance and to inform that party as soon as is practically possible of the extent to which this claim will require suspension.

## 13. COST INCREASES

If a period of more than one month elapses between the signing of the contract and the due delivery date, we shall then be entitled to calculate the price anew and increase it due to increases in raw material prices, energy costs, wages and salaries or additional expenses through taxes or duties. If the price increase is for more than 10% of the originally agreed price, the customer shall be entitled within one week of notification of the price increase to withdraw from the agreement with regard to the contractual volume not yet delivered.

## 14. ASSERTION OF CLAIMS

All claims are to be asserted in writing, for example, by post, e-mail, fax, telex or cable.

## 15. SET-OFF AND RETENTION RIGHTS

The purchaser can exercise set-off and retention rights only if his counterclaims have been established in law, are undisputed or are recognised by the seller.

## 16. APPLICABLE LAW, LEVEL VENUE

**(a)** The agreement and the legal relations between the purchaser and the seller are subject exclusively to the law of the Federal Republic of Germany.

The provisions of the UN Sales Convention shall not apply.

**(b)** In the event of the contract partner being a merchant, a judicial person under public law or a special fund under public law, the following is hereby agreed: The jurisdiction of the German court at our official domicile (District Court Hagen, Regional Court Hagen etc.) is agreed as venue for all disputes arising from or in connection with this agreement.

**(c)** The purchaser shall bear all charges, costs and expenses arising in connection with any successful legal action taking against the purchaser outside Germany.

## 17. CONCLUDING PROVISIONS

**(a)** The seller is entitled to assign his receivables to a third party. The purchaser's claims from supply agreements can be assigned only with written consent.

**(b)** If any individual provisions of these General Terms and Conditions are or become void or ineffective in part or in full, this shall not prejudice the validity of the remaining provisions. Any void or ineffective provision is to be interpreted or reinterpreted so that the purpose originally intended by that provisions is achieved insofar as is possible. If this is not legally possible or if the agreement contains some other gap, the agreement is, after its general purpose has been duly considered, to be supplemented by a new regulation corresponding to what the parties would have agreed if they had considered the point in question at the time. If a provision is invalid due to some dimension of performance or time as specified in these provisions, an admissible dimension coming as close as possible to the agreed dimension shall be considered agreed.