

STANDARD TERMS AND CONDITIONS OF DELIVERY AND PAYMENT OF WEVO-CHEMIE GMBH AS OF MAY 2016

I. Definition, scope

1. The following Standard Terms and Conditions shall not apply vis-à-vis consumers. They shall apply for all other customers (hereinafter referred to as customer) of WEVO-CHEMIE GmbH (hereinafter referred to as WEVO).
2. Solely the following Standard Terms and Conditions shall apply. WEVO shall only recognise any other conflicting or deviating terms and conditions of the customer when they have expressly been agreed to in writing. This consent requirement shall apply in all cases, even if WEVO supplies customer in awareness of customer's general terms without explicitly rejecting such deviating terms.
3. Any agreements or ancillary agreements deviating from these terms and conditions shall not be valid, unless they are confirmed in writing by WEVO.
4. These Standard Terms and Conditions shall also apply to future contracts, even if not explicitly referred to them in such future contracts.

II. Offers - offer documents, confirmation of orders

1. If the order is to be qualified as a bid within the framework of § 145 German Civil Code (BGB), WEVO shall be entitled to accept it within 4 weeks following receipt of such bid.
2. WEVO shall retain any and all property rights and copyrights for images, drawings, calculations, liquid samples of the materials or granule samples and other documents. This shall also apply to written documents which are designated as „confidential“. Any disclosure to third parties shall require the express written consent of WEVO.
3. A delivery contract shall only be deemed to have been entered on a written confirmation of the order from WEVO towards the customer and no later than upon WEVO's delivery. Data transmission or fax transmission shall be deemed to fulfil the written form requirement. If WEVO can prove by the submission of a transmission report that it forwarded a declaration by fax or data transmission, it shall be assumed that the customer received the said declaration.
4. Any orders transmitted electronically shall not be deemed to be received unless they have been retrieved and opened by WEVO. WEVO reserves the right to delete orders without opening them. WEVO's confirmation of such an unopened and deleted order is not to be seen as a legally binding acceptance.
5. Deviations from contractually negotiated dimensions, weights and qualities shall be permitted within the framework of applicable DIN standards or accepted practice. Changes may only be made to contractually negotiated dimensions, weights and qualities at the customer's request if the latter makes his/her request in good time so that it is still possible to take the changes into consideration during WEVO's manufacturing.
6. WEVO's offers are subject to change without notice.

III. Delivery schedule / Subcontractors

1. In the event of a delivery schedule having been issued the period for acceptance shall be 4 weeks beginning with the day the order has been confirmed in the event of no other agreement having been made in writing.
2. At the end of such period the remainder of stock may be delivered to the customer and he shall be obliged to accept the delivered items and to pay the price agreed upon under the respective contract.
3. In the event of a delivery schedule without specifications concerning duration, amounts and dates of delivery, WEVO can claim a binding specification on these points at the latest 3 months after confirmation of the order.
4. WEVO may, without customer's prior consent or approval, engage any third party, e.g. sub-contractor, upstream suppliers etc. for production of products and to fulfil WEVO's obligations under the respective contract.

IV. Prices – Conditions of payment

1. The basis for the pricing shall be the price lists of WEVO applicable at the time of confirmation of the order. On this basis the raw material values in accordance with Clause IV shall be calculated, too.
2. All prices quoted by WEVO shall be deemed to be EXW (ex-works) WEVO delivery works, Schönbergstr. 14, 73760 Ostfildern-Kemnat, Germany (INCO-TERMS 2010) plus value added tax applicable at the time of billing, without packaging, freight and customs duties; the latter shall be billed separately. WEVO reserves the right to have the delivery and billing carried out by any delivery works. If the delivery is made in hired containers (cases or other reusable packaging), these must be returned without delay free works; otherwise the containers shall be billed at cost price or at the return shipment costs incurred by WEVO.
3. Prices are binding and stated in Euros. In relation to consumers VAT is included, but not included and to be added in relation to entrepreneurs. Price alterations shall be admissible if more than four months lie between the conclusion of the contract and the delivery date agreed upon. If salaries and wages, material costs or market unit prices increase thereafter, including but not limited to fluctuations in currency exchange rates, until agreed delivery date, WEVO shall be entitled to increase the price in a reasonable manner in line with cost increases. The customer shall only be entitled to rescind the contract, if the price increase exceeds the increase in general costs of living between the order and the delivery dates in a considerable manner. – If the customer is a merchant, a public law entity or a special federal fund, price changes shall be admissible under the aforementioned provisions if there are more than six weeks between the conclusion of the contract and the delivery date agreed upon.
4. For small orders WEVO reserves the right to bill an appropriate mark-up.
5. Unless otherwise agreed upon, payments shall become due upon delivery and no later than on receipt of the invoice. With reservation as to the rejection of credit granting, invoices must be paid net and in full within 30 days of the date of invoice. Notwithstanding this provision WEVO shall be entitled, at any time, to make a delivery dependent on concurrent payment without stating any reasons. If there are good and sufficient grounds, including but not limited to annulment of credit limits in customer's commercial credit insurance established with WEVO, delay in payment (Zahlungsverzug) etc., WEVO may demand advance payment and/or cash-on-delivery shipment or the opening of a letter of credit.
6. Cheques and bills of exchange shall only be accepted on account of performance. Moreover, bills of exchange shall only be accepted subject to prior agreement and to their discounting. Discount charges and interest must be remunerated.
7. The day of receipt of payment shall be deemed for all means of payments to be the day on which WEVO or third parties, who have a claim against WEVO, may dispose of the amount.
8. The customer shall not have any offsetting rights unless his counterclaims have been established in a final and conclusive manner and are uncontested or recognised by WEVO. Moreover, the customer shall solely be entitled to exercise a right of retention to the extent that his counterclaim is uncontested and based on the same contractual relationship.
9. All payments must be made to WEVO and not to a representative of WEVO. Representatives shall not be entitled to collect sums due unless they can submit a corresponding power of attorney.
10. In the event of default of payment by the customer, WEVO shall be entitled to retain all deliveries or services.
11. In the event of cessation of payments, executions against the customer or an application for the initiation of insolvency proceedings, all accounts receivable shall become immediately due for payment.

V. Retention of title

1. WEVO shall retain all property rights for the delivery items until receipt of full payments of all current and future receivables regarding the business relationship with the customer.
2. The assertion of the retention of title and the pledging of the delivery items by WEVO shall not be deemed to be a rescission of the contract unless expressly declared in writing by WEVO. In the event of delay of payment WEVO shall be entitled to reclaim the delivered goods and/or to rescind from contract without having set a new date for payment.
3. The customer shall be entitled to resell the delivery items in the ordinary course of business. It shall likewise retain title vis-à-vis its customers until full payment by the customers. It shall already now assign all accounts receivable to WEVO in the amount of the purchase price (including value added tax) agreed between WEVO and the customer which arise for the customer as a result of reselling, regardless of whether the delivery items are sold on with or without processing. The customer shall be entitled to collect these accounts receivable after their assignment. The right of WEVO to collect the accounts receivable itself shall not be affected; WEVO undertakes, however, not to collect the accounts receivable as long as the customer properly meets his payment obligations and is not in default of payment. If the customer is, however, in default of payment, WEVO may require the customer to disclose his assigned accounts receivable and debtors, to make all information available, which is necessary for collection, to submit the corresponding documents and to inform the debtors (third parties) about the assignment.
4. If items under retention of title are not resold, customer shall be obligated to safeguard the items under retention of title on behalf of WEVO, to maintain them as needed at its own expense, and to insure them against loss and damage at a level of coverage expected of a prudent businessman, for as long as title is retained. In the event items under retention of title are lost or damaged, customer agrees to assign its insurance claims to WEVO.
5. The processing or transformation of the goods by the customer shall always be for WEVO. If the delivery items are combined inseparably together with other items which do not belong to WEVO, WEVO shall acquire co-ownership of the new item in the proportion of the value of the delivery items to the other inseparable combined items at the time of combination. The parties hereby consent now to the passing of title that would accompany such a combination.
6. If the delivery items are commingled in an inseparable manner with other items which do not belong to WEVO, WEVO shall acquire co-ownership of the new items in the proportion of the value of the delivery items to the other commingled items. The customer shall hold the co-owned items in safe custody for WEVO. The parties hereby consent now to the passing of title that would accompany such a commingling.
7. The customer may neither pledge nor transfer the delivery items by way of security. In the event of attachment or seizure or other disposals by third parties, the customer shall inform WEVO without delay and provide it with all information and documents which are necessary for it to secure its rights. Enforcement officers and/or third parties must be informed of the property rights of WEVO.
8. WEVO undertakes to release the collaterals to which it is entitled when requested by the customer insofar as the realisable value of the collaterals exceeds by more than 20 % the accounts receivable to be secured. WEVO shall select the collaterals to be released.
9. The customer has to inform WEVO immediately about any changes of possession of the supplied goods, personal or business address.

VI. Deliveries, delivery period, delivery quantities, Force majeure

1. The delivery times and delivery deadlines shall only be binding if they have been expressly agreed upon in writing. Compliance with agreed dates of delivery and performance shall presuppose that all technical issues have been clarified and payments or other obligations of the customer have been

made and/or fulfilled in due time. If this is not the case, the period of time may be extended upon mutual written agreement in a reasonable manner. Periods of delivery shall be inhibited by a rearrangement or change of article desired by the client. The period shall recommence again when the changes have been approved by the customer.

2. WEVO shall deliver the contractual goods to the customer in accordance with its delivery possibilities, including but not limited, subject to the timely and correct supply by our suppliers. Delivery shall be effected from the respective shipping point in accordance with the general commercial terms specified in the contract, the interpretation of which shall be governed by the INCOTERMS applicable on the date the contract is concluded. Unless expressly agreed otherwise, deliveries are made ex-works in accordance with Section IV. 2.
3. Partial deliveries shall be admissible provided that they do not result in any disadvantages in terms of use.
4. If delivery is delayed on the instigation of the customer, the goods shall be held in safe custody at WEVO at the risk and expense of the customer.
5. Force majeure of any kind, unforeseeable production, traffic or shipping disruptions, fire, explosion, natural disasters, flooding or low water levels, unforeseeable shortages of labour, energy, raw material and supplies, strikes, lockouts, war, political unrest, acts of terrorism, acts of government, and incorrect or delayed delivery by suppliers resulting from or arising out of the foregoing or any other hindrances beyond WEVO's control which diminish, delay or prevent production, shipment or availability of the items or make it an unreasonable proposition, shall release WEVO from its obligation to perform for the duration and to the extent of that such disruption or hindrance prevails. The delivery period shall be extended in such event for the period of such event. This shall also apply when circumstances like these occur to WEVO's subcontractors.
6. If the customer is in default of acceptance or if he violates any other duties to cooperate, including but not limited to an agreed supply of packaging, small load carriers (KLT) etc. in accordance with the conditions as laid down under Section VIII 4., WEVO shall be entitled to process first orders of third parties and to extend the delivery period in an appropriate manner. Notwithstanding any more extensive claims, WEVO shall be entitled to demand compensation for the corresponding damage caused to it, including any additional expenditure.
7. For specific customer products or products not stocked, WEVO reserves the right to deliver 10 % more or less.
8. There must be a special agreement on taking back the packaging, insofar as we are not obliged to do so in accordance with binding legal regulations or due to official regulations which are based on binding legal regulations.

VII. Default in delivery

If WEVO defaults in delivery, the customer shall have the rights as set forth under the relevant applicable legal provisions.

VIII. Shipment - passing of risk

1. Unless otherwise laid down in the confirmation of order, delivery „ex-works“ in accordance with Section IV 2. shall be deemed to have been agreed. Shipment shall be at the risk and for the account of the customer. This shall also apply to return shipments.
2. Packing material shall be invoiced at cost price. Container and wagon rents shall be borne by the recipient.
3. If WEVO is obliged under the German Packaging Ordinance to take back the packaging used for transport and/or sale, the customer shall bear the costs for the transport back and the reasonable costs of utilisation or, if this is possible and considered as purposeful by WEVO, the reasonable costs which arise on top for the reuse of the packaging. The customer undertakes and confirms upon the placement of his order vis-à-vis WEVO to direct any packaging, which is not sent back, to utilisations stipulated under the German Packaging Ordinance.

IX. Industrial property rights

1. The customer undertakes to inform WEVO immediately of proprietary rights asserted by third parties concerning the supplied products and to let WEVO assume legal defence at its own expense. WEVO shall be entitled to carry out the necessary alterations following proprietary right assertions of third parties at its own expense, even for goods already supplied and paid.
2. If a third party prohibits WEVO to produce or deliver by referring to an industrial and/or intellectual property right, WEVO is – in the case of WEVO not being legally responsible for the infringement – entitled to cease production and delivery until the legal situation has been clarified between the customer and the third party. In the event of the continuation of the order no longer being reasonable for WEVO due to the delay, WEVO shall have the right to withdraw from contract.
3. The customer guarantees that all services and goods provided by him, in carrying out this contract, including but not limited to samples, drawings etc., are free from industrial and/or intellectual property rights of any third party. The customer shall indemnify WEVO insofar from all legal claims of any third party whatsoever including WEVO's reasonable costs for legal defence.
4. Drawings and samples the customer has provided WEVO with will be sent back only on customer's demand. If no request has been made by customer within two months after the offer, WEVO is entitled to destroy the said items.
5. Drafts and proposals for construction of WEVO may only be imparted with WEVO's written consent.
6. WEVO's recipes and developments are subject to patent, intellectual copyright and protection of design patents. The customer shall be liable for damages that occur due to the breach of any industrial property rights.

X. Remedies in case of defects / Notice period / Damages / Liability

1. If a product is specified, it shall be deemed to be without material defects, if recognised tolerances due to manufacturing are complied with. Deviations from contractually negotiated dimensions, weights and qualities shall be permitted within the framework of applicable DIN standards or accepted practice. Changes may only be made to contractually negotiated dimensions, weights and qualities at the customer's request if the latter makes his/her request in good time so that it is still possible to take the changes into consideration during manufacturing. Any information provided in product descriptions and product specifications, Drawings, images, dimensions, weights or any other performance data as well as samples, such as in particular liquid samples of the materials or granule samples, pamphlet specifications or information contained in any other advertising material shall not be deemed to be regarded as a guarantee for the nature of the item (garantierte Beschaffenheitsmerkmale) or for it retaining a certain quality for a specified time (zugesicherte Eigenschaft). Samples provided towards customer by WEVO shall only be valid as non-binding viewing samples. Any acceptance of a guarantee or certain quality (zugesicherte Eigenschaft) shall require an explicit written agreement of such guarantee with WEVO. Customer is entitled to invoke a certain intended purpose of use of the delivered goods only when this has been explicitly agreed upon in writing. WEVO employees and representatives provide consulting services to the best of their knowledge. Specifications and information about the properties, dimensions, weights and quality of our products, as well as about the suitability and use of our products for specific processes and purposes, shall be non-binding and also do not constitute an agreement on condition as set forth in Sections 434 Subsection 1 Clause 1 and Clause 2, 636 Subsection 2 Clause 1 of the BGB. Such specifications given during consulting meetings do not free the customer from conducting his/her own tests and trials.
2. Customer shall inspect Products in accordance with Sec. 377 of the German Commercial Code (Handelsgesetzbuch) immediately following receipt. WEVO must in accordance with Sec. 377 of the German Commercial

- Code (Handelsgesetzbuch) immediately following discovery be notified and given notice of obvious and hidden defects. In the event of a defect for which WEVO is responsible, WEVO shall, at its option, proceed to either subsequent improvement or replacement delivery. In the event of subsequent improvement, WEVO shall be obliged to bear all expenses incurred in respect of the remedying of the defect and, more particularly, transport costs, shipping costs, labour and material costs, insofar as these costs are not increased by the fact that the subject matter of the purchase is transported to a place different from the place of performance. In the event of the customer being a consumer as provided by § 13 BGB he shall have the choice between either subsequent improvement or replacement delivery.
3. WEVO reserves the right to two (2) attempts of supplementary performance. If subsequent performance fails, the customer shall be entitled either to a reduction of the corresponding compensation for this order or to rescind the contract. Insofar as the subject matter of purchase or the work performed lack a warranted or guaranteed property, WEVO shall be liable under the statutory provisions.
 4. If WEVO is not responsible for specific defects, warranty claims shall be excluded unless a warranted property is lacking.
 5. Irrespective of the legal basis, WEVO shall not be liable for loss or damage (including expenses) suffered by the customer as a result of WEVO's slight negligence or the slight negligence of its legal representatives, employees, workers, agents and vicarious agents.

This exclusion shall not apply to claims relating to a breach of material contractual obligations, the fulfilment of which is essential to the proper implementation of the contract and whose fulfilment the Purchaser may therefore normally rely on (cardinal duties).

6. Insofar as WEVO is liable on the merits for damages pursuant to Section X. No. 5, its liability for all damages and reimbursements, whether contractual, non-contractual or otherwise and regardless of their legal nature, shall be limited in terms of amount to foreseeable damages typical for the respective contract.
7. The above exclusions and limitations of liability shall not apply to claims relating to death, personal injury and impaired health or for claims under the German Product Liability Act. Mandatory provisions of law shall remain unaffected.
8. WEVO cannot be held responsible for loss or damage attributable to any of the circumstances identified in Section VI No. 5 of these standard terms.
9. Any exclusion or limitation of liability in favour of WEVO provided under this Section X. shall also inure to the benefit of the legal representatives, employees, workers, agents and vicarious agents of WEVO arising out of the same cause of action.

XI. WEVO's right of withdrawal

In case of an unforeseen event, in accordance with Sec. VI. 5. of these standard terms, WEVO shall not be responsible for changes the economical significance or the content of the contractual services considerably or has considerable effects on WEVO's business and if after conclusion of the contract the promised service turns out to be impossible to render for WEVO at no fault of WEVO, WEVO shall have the right upon expiration of a reasonable period of time to withdraw partly or completely from contract. WEVO shall not have the said right to withdrawal when this is not economically bearable for the customer. This clause does not affect further statutory rights to withdrawal.

XII. Exclusion of Information Duties towards non-consumer customers

If the customer is not regarded as consumer, the information duties of WEVO under Section 312i Abs. 1 Sentence 1 Nr. 1 to Nr. 3 of the German Civil Code (BGB), where WEVO would be obliged to inform the customer as follows; 1. Provide appropriate, effective and accessible technical means, the customer may use to correct typing errors before he submits his order; 2. To provide the customer with several information as set forth under

Article 246c of the Introductory Statute to the German Civil Code (EGBGB) timely and in a clear manner prior to the order and 3. To confirm the receipt of his order without undue delay electronically, shall be explicitly excluded.

XIII. Miscellaneous

1. Unless expressly otherwise agreed, the registered office of WEVO shall be the place of performance.
2. If the customer is a merchant, a public law entity or a special federal fund, the place of jurisdiction shall be the competent court at the place of business of WEVO excluding cases where a competent court is designated by mandatory statutory provisions. WEVO shall, however, be entitled to sue the customer in line with mandatory statutory provisions also before any other admissible court.
3. The present standard terms and conditions and all legal relationships between WEVO and the customer shall be, to the extent legally permitted, exclusively governed by the laws of the Federal Republic of Germany, excluding the rules on private international law and the United Nations Convention on Contracts for the International Sale of Goods (CISG).
4. All claims arising out of or in connection with the respective agreement shall become time-barred within 12 month following knowledge or grossly negligent lack of knowledge of the circumstances with regard the respective claim. Mandatory limitation periods of law shall remain unaffected. The reduced limitation periods described above shall not apply to claims based on the acceptance of a guarantee, claims based on wilful misconduct or gross negligence, claims under the German Product Liability Act, recourse claims based on the regulations on the sale of consumer goods, claims relating to death, personal injury or impaired health, or to claims relating to breaches of cardinal duties as defined in Section X. above.
5. Should a provision of these terms and conditions or part of such a provision be or become invalid, the remaining provisions and/or the remaining part of the provision shall remain valid.
6. The contractual language shall be German. If the contracting partners use any other language, the German wording shall prevail.

Information in accordance with § 28 BDSG (Federal German Data Protection Act): We store personal data of our customers.