

GENERAL TERMS AND CONDITIONS OF SALE

Unless specified otherwise and duly accepted in writing by POLYALFA GMBH, every order implies the unconditional acceptance by the buyer of the present general terms and conditions of sale and the waiver by the buyer to call upon any of his own terms and conditions of purchase. As per entering into the contract, the present general terms and conditions of sale are considered to be well known by the buyer.

1. Proposals

The proposals to sell made by POLYALFA GMBH do not constitute offers and are made without any obligation for POLYALFA GMBH.

2. Orders

Every order of a buyer irrevocably binds such buyer and cannot be cancelled, even before its acceptance by POLYALFA GMBH. Every order shall be made in writing and mention the VAT number of the buyer.

3. Order confirmation

POLYALFA GMBH only accepts commitment at the moment of its confirmation of the order. The buyer is supposed to agree upon the content of the confirmation if his comments have not been submitted in writing to POLYALFA GMBH within 24 hours of the receipt of the confirmation.

4. Cancellation of order

Should POLYALFA GMBH agree to cancel an order, such agreement being exceptional and in writing, a lump sum indemnity equal to 15 % of the amount invoiced between 1 and 25.000 €, to 10 % of the amount invoiced between 25.001 to 150.000 € and to 5 % of any amount invoiced over and above 150.000 € will be owed by the buyer without prejudice for POLYALFA GMBH to claim, whenever applicable, damages higher than the here above calculated lump sum liquidated damages.

5. Price and revisions

The prices mentioned in the proposal to sell of POLYALFA GMBH are indicative and only become applicable from our order confirmation. POLYALFA GMBH is entitled to increase its prices at any time even the ones settled in its confirmations of orders, without prior notice, in proportion to the increase of raw materials, transport costs, import taxes, rates of exchange and other similar economic factors, even if this increase occurs after the agreed delivery date, unless the delay is attributable to POLYALFA GMBH, which requires to be evidenced by the buyer.

6. Delivery dates

The delivery dates are indicative. In case of a delay, the buyer will not be entitled to claim any damage nor to terminate the sale. If the delay should exceed 30 days, the buyer could nevertheless, after a notice left unanswered, cancel his order without being entitled to any damages, neither direct nor incidental nor indirect.

7. Shipping

Goods are shipped at buyer's risks, even if they are delivered free of charge and even if the choice of the means of transport depends upon the seller.

8. Delivery

Goods are delivered ex-works, Germany. A free of charge delivery is granted to the buyer for a total invoiced amount superior to 25.000 €, shipped at one time to the same destination. In case the buyer indicates that it wants to remove the goods itself, if said goods are not removed within seven working days of the agreed date, goods will be shipped to the customer at ex-works price increased with the applicable shipping costs.

9. Ownership and risks

Goods remain the entire and sole ownership of POLYALFA GMBH until entire payment of the price and of the supplementary costs. The risks are transferred to the buyer upon specification of the goods.

10. Invoicing/Payment terms

All invoices must be paid to POLYALFA GMBH at 30 days, date of invoice.

11. Penalty clause

Any amount which is not paid at due date will, automatically and without formal notice, bear interests at the discount rate applied at the time of the issuance of the invoice by the German National Bank. This clause applies even if the buyer hands over as payment a bill of exchange or any other payment instrument.

12. Termination clause

In case of a serious breach by the buyer of any clause of the contract or of the general terms and conditions of sale, POLYALFA GMBH reserves the right to terminate the contract by its sole decision and without formal notice with immediate effect on the day of the notification by registered letter of its decision to terminate the contract. The default in paying any invoice of POLYALFA GMBH on time will in each case be considered to be a serious breach.

13. Force majeure

Absolute necessity (force majeure) or acts of God (faits du prince) gives POLYALFA GMBH the right to partially or totally terminate any sale or order or to suspend its execution without previous notice nor indemnity. Shall among others be considered to be cases of absolute necessity social conflicts, delays in the deliveries by the suppliers, wars, fires, natural disasters, an export interdiction from a government authority, events which affect the means of transport, internal organisation problems of the company (absence of personnel because of sickness, machine failures...). POLYALFA GMBH shall not have to prove the unpredictability nor irresistibility of the disturbing event.

14. Unpredictable events

Any unpredictable event that causes POLYALFA GMBH's obligations to be disproportionate with the buyer's, gives right to POLYALFA GMBH to partially or totally terminate the order or sale or to suspend its execution without previous notice nor indemnity.

15. Claims

All claims, except those based on the existence of hidden defects, must be made to POLYALFA GMBH by registered letter within eight working days of the delivery of the goods or, in case of acceptance of the goods, in writing at the time of acceptance. After this moment or if goods have been moved or handled, no claims will be accepted. All claims based on the existence of hidden defects shall be made by registered letter immediately after said defect has surfaced and at latest within five working days of its coming out.

16. Warranty and liability

If goods are not conform to agreed specifications or if they are defective, be such defect hidden or not, or if POLYALFA GMBH is pretended to be in breach, and subject to the forms and terms mentioned under article 15, POLYALFA GMBH may choose either to replace the defective items or to refund the purchase price. POLYALFA GMBH's liability is strictly limited to replacing defective items. The buyer shall not be entitled to any other indemnity and shall bear any other damage to itself or third parties, which would directly, incidentally or indirectly result from the alleged defect or breach.

17. Applicable law and jurisdiction –

This contract shall be exclusively governed by German law. Any dispute relating to its agreement, performance or interpretation shall be exclusively settled by the Courts Germany.

18. Waivers

Possible non-execution by POLYALFA GMBH of, or non-abiding to, one or more articles of the present general terms and conditions of sale, even if happening or having happened repeatedly, is only a matter of tolerance and shall not imply any waiver of POLYALFA GMBH's right to execute these articles at later time.

19. Particular conditions

In case of particular deliveries, particular conditions will be established in more of these present general conditions.