

General Terms and Conditions – SHP Primaflex GmbH

1. Applicability

Our terms and conditions of sale apply exclusively. We do not recognise any Buyer's terms that oppose or deviate from our terms and conditions, unless we expressly agree to their applicability in writing. Our terms and conditions of sale also apply when we perform delivery to the buyer with knowledge of the Buyer's opposing or deviating terms. Our terms and conditions of sale only apply to entrepreneurs in the sense of § 310 Abs. 1 BGB.

2. Conclusion of contract

Offers are always made without engagement. Orders are only binding following our written confirmation of order. Prices always apply ex works, excluding packaging and excluding sales tax. In the case of export, any arrangements made will be indicated by us in writing.

3. Delivery times, right to withdraw

(1) Delivery times are based on current information and are given to the best of our knowledge. The commencement of the delivery time presupposes that all technical matters have been clarified

(2) We are liable under statutory provisions insofar as the underlying contract of purchase is a transaction on a fixed date in the sense of § 286 Para. 2 No. 4 BGB or of § 376 HGB or if the buyer is able to assert that his interest in the further fulfilment of the contract has discontinued as a consequence of a delay in delivery for which we are responsible.

(3) Furthermore, we are liable under statutory provisions insofar as the delay in delivery is founded on a wilful or grossly negligent breach of contract for which we (or our representatives or agents) are responsible. Insofar as the delay in delivery is founded on a grossly negligent breach of contract for which we are responsible, our liability for compensation is limited to foreseeable damage that might typically occur. We are also liable under statutory provisions insofar as the delay in delivery for which we are responsible is founded on the culpable violation of an essential contractual obligation; in this case, the liability for compensation is limited to foreseeable damage that might typically occur.

(4) Moreover, in the event of a delay in delivery, we are only liable to the extent of a fixed-sum compensation for delay amounting to 1% of the delivery value for every full week of delay, up to a maximum of 15% of the delivery value.

(5) Additional legal claims and rights of the buyer are reserved.

(6) Any delivery problems on the part of our suppliers and / or price changes as a result of material or cost increases entitle us to avail our-selves of reasonable subsequent delivery periods and to withdraw from the contract either fully or partially, if these are permanent in nature. In such a case, we undertake to immediately inform the customer about the non-availability or price changes and to immediately reimburse any counterperformance rendered.

(7) If our material costs have changed by more than 5 percent up to 4 weeks before the delivery date, the agreed price will be adjusted based on the cost variation of the portion. The purchaser will then immediately receive an updated purchase confirmation from us. If the deviation of the updated purchase price amounts to more than 5 percent, this entitles both parties to withdraw.

4. Shipment, scope of delivery

(1) Shipment is always ex works and paid for by the Buyer as a matter of principle. All risks transfer to the recipient upon notification of readiness to ship or at the latest when the goods leave the works. Unless expressly agreed otherwise, the choice of means of transport rests with us. Special arrangements require prior written coordination.

(2) Partial deliveries are fundamentally possible insofar as no disadvantages arise from the use thereof and the partial deliveries cover the total quantity by the time of the confirmed delivery date at the latest.

(3) Overdelivery or underdelivery to the customary extent is fundamentally possible. Changes due to technical advancements are reserved but they must be expressly notified by us and they must be reasonable for the buyer.

5. Terms of payment

We reserve the right to perform delivery against cash on delivery or prepayment. The Buyer is only entitled to set off insofar as his counterclaims have been legally established, are undisputed, or acknowledged by us. Moreover, he is entitled to exercise a right of retention insofar as his counterclaims are based on the same contractual relationship.

6. Reservation of title

The delivered goods remain our property until all claims against the Buyer have been fulfilled. If the goods have been processed, combined or mixed, we acquire joint title to the new article in the proportion of the invoice value of the reserved goods. If the reserved goods are sold to a third party, claims to the value of the invoice sum of the delivered goods are automatically assigned to us. We are obligated to release the securities to which we are entitled on request by the customer insofar as the realisable value of our securities exceeds the claims to be secured by more than 10%; we are responsible for selecting which securities to release.

7. Liability for defects

(1) The Buyer must inform us in writing of obvious defects immediately, at the latest within two weeks of receipt of the respective product. Hidden defects that cannot be detected within this period even by detailed inspection must be notified to us immediately upon their detection.

(2) A liability claim for material defects only exists when the Buyer has used the supplied product in accordance with its purpose, in the manner intended, and in a way that is not contrary to our recommendation. The Buyer is obligated to state to us in writing the conditions and purpose of use of the goods to be supplied. Information given by us by telephone or verbally are only binding when confirmed in writing. We endeavour to the best of our knowledge to provide technical advice for the use of our products or products sold by us. This advice is given free of charge and only represents our experience; it is therefore not guaranteed and does not constitute a basis for any claims against us, also in respect of any third party property rights. In particular, the Buyer is not released from satisfying himself of the product's suitability by inspection. For this purpose, we will supply free test samples, following consultation.

(3) Insofar as the purchased item is defective, we, at our discretion, are obligated to render subsequent fulfilment by remedying the defect or supplying a new, non-defective article. In the case of subsequent fulfilment, we will cover the necessary expenses up to the amount of the purchase price. If subsequent fulfilment is unsuccessful, the Buyer is entitled at his discretion to demand withdrawal from the contract or a price reduction.

(4) We are liable under statutory provisions insofar as the buyer asserts compensation claims that are founded on wilfulness or gross negligence, including wilfulness or gross negligence of our representatives or agents. Insofar as we are not accused of wilful breach of contract, the compensation liability will be limited to foreseeable damage that might typically occur.

(5) We are liable under statutory provisions insofar as we are culpably in breach of an essential contractual obligation; in this case too, the compensation liability will be limited to foreseeable damage that might typically occur.

(6) This does not affect liability on account of culpable injury to life, body or health; this also applies to mandatory liability under the Product Liability Act.

(7) Insofar as nothing to the contrary has been stipulated above, liability is excluded.

(8) The limitation period for claims for defects is 12 months, beginning with the transfer of risk. This does not affect the limitation period in the case of delivery recourse under §§ 478, 479 BGB; this expires at the latest two months after the time at which the Buyer fulfils the claims of the consumer.

(9) Defects of part of a delivered product does not constitute grounds for complaint with respect to the overall delivery, insofar as the delivery can be split.

8. Compensation

Any further liability for compensation beyond that provided for in items 3 and 7 is excluded, irrespective of the legal nature of the asserted claim. This applies in particular to compensation claims arising from faults at conclusion of contract, due to other breaches of duty or due to tortious claims for compensation of property damage pursuant to § 823 BGB. This limitation also applies insofar as the Buyer demands compensation for wasted expenditure in lieu of a claim for damages in place of performance. As far as liability for compensation against us is excluded or limited, this also applies with respect to personal liability for compensation of our staff, workers, employees, representatives and agents.

9. Important information regarding high-temperature and chemical hoses

All hose types for high-temperature use were developed as suction tubes in the negative pressure range. It is therefore essential that sufficient ventilator power is available. Should the customer have no experience with the use of these hoses – especially in the negative pressure range – we urgently advise him to conduct prior testing or to obtain technical advice. This applies in particular to alternating loads (movements), high temperatures, vibrations, abrasion, and chemical corrosion. This can lead to extreme and critical demands. For such cases, we also provide test samples following consultation, as well as resistance lists.

10. Special conditions

SHP Primaflex products are only usable in accordance with our written specifications. We assume no warranty or liability in the event of non-observance and you release us from any third-party claims. All UNI hoses that have been coated with Neopren® or silicon are suitable only for dry and not for moist hot air. All pressure and vacuum values were determined after attaching both ends of the hoses. All pressure and vacuum information applies solely when used at a room temperature of +20°C.

11. Legal venue

The legal venue is Lübeck. German law applies.

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