

General Terms and Conditions of Sale and Delivery of SurTec Benelux BV

1. Scope of application

(1) The following general terms and conditions are the basis for all declarations by SurTec Deutschland GmbH (hereinafter: SurTec) directed toward the conclusion of a contract, in particular the offers, acceptances of orders and deliveries and services. These terms and conditions shall be deemed accepted by the contractual partner upon placing the order or, at the latest, upon acceptance of the goods. These General Terms and Conditions of SurTec shall apply exclusively. Any terms and conditions of our contractual partner that are contrary to ours are hereby expressly rejected.; contrary general terms and conditions of the contractual partner only apply to the extent that SurTec has expressly agreed to them in writing.

(2) The terms and conditions of SurTec shall also apply if SurTec carries out the delivery or service to the contractual partner without reservation, knowing of conditions of the contractual partner that are contrary to or deviating from its terms and conditions. For the determination of the volume of the ordered or offered goods or services (hereinafter: goods), the mutual written declarations alone are decisive.

(3) Instructions of the Contractual Partner during the execution of the order shall only become legally binding if they are issued to the company SurTec in writing and confirmed by it in writing.

(4) Insofar as declarations by the parties are required to be made in writing under these Terms and Conditions, the declarations must be signed in person by the issuer and sent to the other party.

(5) The invalidity of individual provisions shall not affect the validity of the remaining provisions of these terms and conditions.

2. Contract conclusion, prices, payment terms

(1) Our offers are subject to change. A contract is only concluded by confirming the order in writing. The type and scope of our delivery are determined exclusively by our written order confirmation. If we do not confirm the order in writing, the contract is concluded no later than the execution of the order. Telephone or verbal declarations of our representatives require written confirmation to be legally valid.

(2) Our performance of the contract is subject to the condition that the performance is not impeded by national or international regulations of the foreign trade or chemical/environmental law as well as no embargoes (and/or other sanctions).

(3) Unless otherwise stated in the order confirmation, delivery conditions and prices of the company SurTec apply "ex works".

(4) The statutory VAT is not included in the prices included by SurTec; it is on the day of the provision of services, the statutory amount is shown separately in the invoice.

(5) Unless otherwise stated in the order confirmation or other payment terms have been expressly agreed in writing, the remuneration is to be paid net (without deduction) within 14 days from the invoice date.

(6) The Contractual Partner must transfer payments at its own expense to the account of SurTec specified in the invoice. Fulfillment occurs with final credit to the account.

(7) In the event of default, we are entitled to charge interest in the amount of 8% p.a. above the base interest rate for the duration of the default. The right to further asserting claims for damages is not limited by this. In addition, in the event of default of the contractual partner, we may, at our option, make outstanding remaining purchase price installments or other claims existing against the contractual partner due, as well as make further deliveries dependent on a prior security deposit or a payment step-by-step against delivery.

(8) The Contractual Partner is only entitled to offset or withhold payments if its counterclaim is undisputed or legally established by us.

3. Shipping and Transfer of Risk

(1) SurTec only delivers CPT under a goods order value of EUR 1,500. Transportation costs will be charged at a flat rate of 15% of the order value. SurTec shall continue to charge the Contractual Partner the actually incurred transport costs above an order value of EUR 1,500.

(2) The risk for the goods shall pass to the Contractual Partner upon shipment as soon as it is handed over to the carrier or freight forwarder, regardless of whether this is a self-pick-up or a freight forwarder ordered by SurTec, unless the parties have determined otherwise.

(3) At the request of the contractual partner, SurTec shall obtain transport insurance for the delivery; the costs incurred in this respect shall be borne by the contractual partner.

4. Delivery time

(1) The dates and deadlines specified by SurTec are non-binding unless expressly agreed otherwise in writing.

(2) Partial deliveries are permitted if they are reasonable for the contractual partner.

(3) In the event that SurTec is in default with its performance, the delay damage is limited to the typical, foreseeable damage. The compensation of this damage is limited in total to the amount of the payment claim against the liability insurance of the company SurTec for the occurrence of an insured event.

(4) Para. (3) does not apply if the company SurTec intentionally acts.

(5) Force majeure of any kind, unpredictable Traffic, operational or shipping disruptions, fire damage, floods, unforeseeable labor, energy, raw material or excipient defects, strikes, lockouts, official orders or other obstacles for which the party responsible for performance is not responsible, which reduce, delay, prevent or make unreasonable the manufacture, shipment, acceptance or consumption, release the obligation to perform for the duration and scope of the disruption.

(6) The party obligated to perform must inform the other party immediately of the occurrence of a circumstance specified in § 4 para. (5). In this case, the party obligated to perform can only detach from the contract if the circumstance according to § 4 para. (5) is not merely temporary in nature and the consideration already granted is returned upon withdrawal.

5. Packaging

(1) Packaging will only be returned if separate written agreements have been made about this and mandatory legal provisions do not stipulate otherwise.

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(2) SurTec uses Euro pool pallets (800x1200) or disposable pallets for delivery. The receiving contractual partner is obligated to provide the same number of exchangeable empty pallets immediately upon delivery of the goods. Only perfect Euro Pool pallets with minimum quality B are exchangeable. If the contractual partner does not return the pallets or in a lower minimum quality, SurTec is entitled to charge the contractual partner the replacement price.

(3) The Contractual Partner shall also be charged the replacement value if he does not notify the carrier in writing of any transport damage when the goods are taken over.

6. Statement of Work, Warranty

(1) The quality of the delivery and service item is finally determined by the features that are explicitly listed in the product information and safety data sheet of the product; other or other service features of the deliveries and services are not owed. A warranty beyond this express quality agreement, e.g. for a specific purpose or a specific suitability, Duration of use, Shelf life, functionality, Compatibility, other subjective or objective requirements or compliance with samples or samples, is only adopted, if and insofar as this is expressly agreed in writing and the contractual partner transfers one or more sample samples to SurTec and SurTec performs a sampling, i.e. a test series in the laboratory, and then provide instructions for processing or use. In addition, the risk of suitability and use lies exclusively with the contractual partner. We reserve the right to commercially or technically unavoidable deviations from physical and chemical quantities including colors, formulations, processes and the use of raw materials as well as order quantities, insofar as this is not unreasonable for the contractual partner.

Assembly and other instructions as well as specifications in addition to those in the product information and safety data sheets or recommendations on storage, installation, testing, operation or maintenance (hereinafter referred to as "instructions") are to be included in the delivery item and handed over only if this is expressly agreed. We are entitled to hand over these instructions only with the delivery or to refer to them in delivery documents (e.g. by referencing corresponding websites). The Contractual Partner is obligated to comply with the instructions and to observe the relevant regulations such as (e.g. DIN standards) or other industry standards.

The warranty and all rights arising under this Agreement are exclusive. There are no further warranty rights, either express or implied, based on promotional claims, implied actions or trade usage. Insofar as this is permissible under the relevant legal provisions, all further statutory warranty rights are hereby excluded, in particular those that relate to an average subjective or objectively expected nature, suitability for a specific purpose, a specific type of use or freedom from third-party rights.

(2) All quantities, dimensions, and weights are subject to standard commercial tolerances.

(3) Information on the delivery and service item (e.g. in catalogs, product information, electronic media or on labels) is based on our general experience and knowledge and only constitutes guidelines or labels. Both these product specifications and expressly agreed features/purposes do not release the Contractual Partner

from testing the suitability for the intended use of the product. Information on the quality and application possibilities of our products does not include any guarantees, in particular not in accordance with §§ 443, 444, 639 BGB, unless these are expressly designated in writing as such.

(4) If the contractual partner does not carefully comply with the given instructions for the processing or use of products from SurTec or uses a material to be processed that deviates from the tested material and the processing process does not lead to the desired result for this reason, a warranty from SurTec is excluded. The Contractual Partner is obligated to prepare and maintain records of the process flows and conditions on which the processing is based.

(5) The Contractual Partner must properly fulfill its investigation and complaint obligations in accordance with § 377 HGB.

(6) If there is a defect, SurTec is entitled, at its option, to remedy the defect or to manufacture a new product. A claim to rescind the contract or reduce the purchase price is only given if the defect cannot be remedied within a reasonable period of time, the subsequent performance is associated with disproportionate costs, unreasonable or otherwise considered to have failed. The supplementary performance only applies as failed after the second unsuccessful subsequent performance attempt, provided that the contractual partner has fulfilled its obligations to cooperate. In the event of only minor defects, the Contractual Partner is not entitled to a right of withdrawal.

(7) SurTec shall be liable in accordance with the statutory provisions, provided that the Contractual Partner asserts claims for damages based on intent or gross negligence by SurTec, including intent or gross negligence of its representatives or vicarious agents. Insofar as SurTec or its vicarious agents are not charged with an intentional breach of contract, the liability for damages is limited to the foreseeable, typically occurring damage/loss. The compensation of this damage is limited in total to the amount of the payment claim against the liability insurance of the company SurTec for the occurrence of an insured event. This also applies to claims for damages in lieu of performance.

(8) In the event of simple negligence, SurTec shall only be liable if it breaches a material contractual obligation; in this case, however, the liability for damages is limited to the foreseeable, typically occurring damage/loss. The compensation of this damage is limited in sum to the amount of the payment claim against the liability insurance of SurTec for the occurrence of an insured event.

(9) The mandatory statutory liability due to culpable injury to life, body or health is not affected by the above provisions; this also applies to mandatory liability under the Product Liability Act.

(10) Unless otherwise stipulated above, SurTec's liability is otherwise excluded.

(11) The limitation period for claims for defects is 12 months, calculated from the transfer of risk.

(12) The limitation period in the event of a delivery recourse pursuant to §§ 478, 479 BGB remains unaffected; it is five years, calculated from the delivery of the defective item.

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(13) In the event of complaints, the contractual partner must immediately give us the opportunity to inspect the goods in question; in particular, the goods in question must be made available to us upon request and at our expense. In the event of unauthorized complaints, we reserve the right to charge the contractual partner with transport costs as well as the verification effort.

Total liability

(1) Liability for damages beyond the liability provided for in § 6 is – without regard to the legal nature of the asserted claim –

excluded. This applies in particular to claims for damages arising from culpa in contrahendo of the contract, due to other breaches of duty or due to tort claims for compensation of property damage in accordance with § 823 BGB.

(2) This limitation also applies if the contractual partner does not demand compensation for damages instead of the service, but rather reimbursement of useless expenses. Insofar as SurTec's liability for damages is excluded or limited, this also applies with regard to the personal liability for damages of its employees, agents and vicarious agents.

7. Retention of title

(1) The items of the deliveries (reserved goods) remain the property of SurTec until fulfillment all claims to which it is entitled against the contractual partner arising from the business relationship. If the value of all security rights to which it is entitled exceeds the amount of all secured claims by more than 20%, SurTec shall release a corresponding part of the security rights at the request of the Contractual Partner.

(2) The Contractual Partner shall notify SurTec in the event of attachment or other interventions by third parties immediately in writing so that the action may be filed in accordance with § 771 German Code of Civil Procedure (ZPO). If the third party is unable to reimburse SurTec for the judicial and extrajudicial costs of an action pursuant to § 771 ZPO, the contractual party shall be liable for the loss incurred by SurTec as a result of such failure.

(3) If the Contractual Partner resells goods subject to retention of title or goods that have been processed using SurTec products, it hereby assigns to SurTec by way of security its future claims arising from the resale against its customers, together with all ancillary rights — including any balance claims or current account balances — without the need for any further special declarations. However, this assignment shall only apply up to an amount exceeding the total secured claims by a maximum of 20%.

(4) The processing or transformation of the contractual object by the contractual partner is always carried out for the company SurTec. If the contractual object is processed with other objects not belonging to SurTec, SurTec acquires co-ownership of the new object in proportion to the value of the contractual object (final invoice amount including VAT) to the other processed objects at the time of handover of the contractual object to the contractual partner. The same shall apply to the item resulting from processing as to the contractual object delivered under retention of title.

(5) If the contractual product is mixed with other items not belonging to SurTec, SurTec shall acquire co-ownership of the new item in proportion to the value of the contractual product (final invoice amount including VAT) relative to the other processed items at the time the contractual object is handed over to the contractual party. If the mixing is such that the contractual party's item is to be regarded as the main item, it is agreed that the contractual party transfers proportional co-ownership to SurTec. The contractual party shall hold the resulting sole or co-ownership in custody for SurTec.

8. Compliance with legal provisions

(1) Unless otherwise agreed in writing in individual cases, the Contractual Partner is responsible for compliance with the applicable legal and official regulations (in particular regarding import, transport, storage, export, resale, use and handling of the goods). The Contractual Partner must inform itself of applicable registration, information and/or reporting obligations and ensure compliance with these obligations, in particular with regard to import, transport, storage, export, resale, use and handling of the goods.

(2) We limit ourselves to the information under foreign trade law, such as the origin of goods under foreign trade law and the statistical goods number in our commercial invoices. In general, we do not prepare a long-term supplier declaration with preference origin property. The importation of a commodity depends on non-preferential origin. Such proof of origin does not generally lead to the granting of customs legal benefits.

9. Exclusion of assignment, choice of law, place of jurisdiction, place of performance

(1) The contractual partner is only entitled to assign its claims from the contractual relationship with our prior consent.

(2) Exclusively, the law of the Federal Republic of Germany shall apply, excluding the provisions of private international law that refer to the applicability of any other legal system. The application of the UN Convention of Contracts for the International Sale of Goods (United Nations Convention of Contracts for the International Sale of Goods) is excluded.

(3) The sole place of jurisdiction is if the opposing party is Entrepreneur within the meaning of § 14 BGB is the headquarters of SurTec in all disputes arising directly or indirectly from the contractual relationship.

(4) Unless otherwise stated in the order confirmation, the place of business of SurTec is also the place of performance.

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