

# General Conditions of Sale (Germany)

Envalior Deutschland GmbH • Flughafenstraße 101 • 40474 Düsseldorf • Germany  
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## 1 General

1.1 These General Conditions of Sale and Delivery apply to all offers submitted by Envalior GmbH (“**Seller**”) to its customer (“**Buyer**”) and all sales contracts between Seller and Buyer. Any conflicting or deviating conditions of purchase or other reservations submitted by Buyer shall not apply unless accepted by Seller in writing in each individual case.

## 2 Seller’s Offer

2.1 Unless Seller’s offer is explicitly labeled as binding or carries an offer validity date, Seller’s offer shall not be legally binding.  
2.2 All prices quoted by Seller are VAT-exclusive.

## 3 Conclusion of Contract

3.1 A contract between Buyer and Seller is formed when Buyer accepts Seller’s binding offer without any modifications by placing a purchase order or countersigning the offer.  
3.2 If Buyer places a purchase order on a non-binding or expired offer or if Buyer alters any of the terms or conditions of Seller’s offer, a contract is formed upon Buyer’s receipt of Seller’s order acknowledgement in text-form.

## 4 Remuneration

4.1 The prices invoiced shall be the Seller’s prices effective at the time of delivery.  
4.2 If Seller implements a list price increase of more than 3% after formation of contract and until delivery, Buyer shall have the right to rescind from the undelivered portions of the contract by serving written notice to Seller within two weeks after being informed of such price increase, unless the price increase is exclusively attributable to an increase in shipment cost. The right of withdrawal shall not apply to long-term supply contracts.  
4.3 If payment is made in a non-Euro currency and the exchange rate of the payment currency has changed by more than 5% between the offer and payment, the seller (or the buyer) is entitled to demand an adjustment of the payment to compensate for the exchange rate fluctuation.

## 5 Shipment

5.1 Seller shall determine the route and the mode of transport. Buyer shall bear any additional costs resulting from special shipping requests. Unless prepaid freight has been agreed, Buyer shall also bear any increases in freight rates which become effective after the contract has been concluded, any additional costs resulting from re-routing a consignment, storage expenses, etc.  
5.2 The risk of destruction, loss or damage shall pass to the Buyer upon dispatch of the goods or, if they are collected by the Buyer, at the time they are placed at the Buyer’s disposal, unless something else has been contractually agreed.  
5.3 Seller shall determine the weight of the goods before shipment. Buyer shall be entitled to request a

weighting at his expense from the carrier at the dispatch location.

## 6 Delivery

6.1 Unless agreed otherwise, all goods shall be delivered from Seller’s production facility according to Incoterms-FCA (Seller’s plant).  
6.2 Delivery dates indicated in Seller’s offer or order acknowledgement are indicative and non-binding unless a specific delivery date has been expressly declared binding. In any event, Seller shall make every commercially reasonable effort to effect delivery as quickly as possible.  
6.3 Unless a fixed delivery date has been agreed, Buyer shall grant the Seller a reasonable grace period in case of a delayed delivery. Fulfillment of the contract shall be subject to correct and timely delivery of orders by the Seller’s suppliers. The date of delivery shall be the day on which the goods leave the plant or warehouse.  
6.4 Unless agreed otherwise in writing, Buyer shall be responsible for complying with legal and governmental regulations pertaining to import, transport, storage, use, resale, and export of the goods.  
6.5 Buyer shall not use, sell or deliver the goods to third parties for use in developing or manufacturing biological, chemical, or nuclear weapons; for high-risk applications outside the agreed scope as defined by Seller’s specification (e.g., for unauthorized use in implants or in aerospace applications), other illegal purposes; in violation of embargoes; in violation of legal obligations concerning registration or reporting; or without the permits required under applicable legal regulations or to use them itself for such purposes.  
6.6 If, at the time of delivery of the goods and/or performance of services, the Seller is obligated to obtain a legal or governmental permit to export the goods and/or services, and the requested permit for export is not issued, Seller shall be entitled to rescind from the contract without any liability to Buyer. In the event of a delay in issuance of the permit by the authorities caused by Seller’s slight negligence, Buyer shall not be entitled to damages.  
6.7 Seller shall be entitled to rescind from the contract without any liability to Buyer if, at the time of delivery, any embargo relevant for Seller prohibits the delivery, or if, in the event of a product registration obligation or similar obligations, registration has not been applied for or issued on the date of delivery.

## 7 Inspection of Deliveries

7.1 Buyer shall immediately upon receipt examine whether a delivery corresponds to the order. Buyer shall also immediately examine the shipment for obvious transportation defects. Buyer shall inform Seller about any defects or nonconformity without undue delay.

## 8 Retention of Title

8.1 Title to the goods shall pass to Buyer upon full payment of the goods.

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- 8.2 If Buyer defaults on his obligations to Seller, Seller shall have the right, without granting a respite and without canceling the contract, to repossess the goods to which he has retained title. Such repossession shall not constitute cancellation of the contract unless the Seller has expressly declared cancellation in writing. If the Seller cancels the Contract, he shall have the right to demand appropriate compensation for having permitted Buyer to use the item for a certain period.
- 8.3 If Buyer processes goods to which Seller holds the title, Buyer is deemed to have done so on behalf of Seller and Seller's title to the goods shall also apply to the processed goods. If goods to which title is retained by Seller and other third parties, the title holders shall acquire product co-ownership according to their participation ratio. If the goods, because of such mixing or attaching, become part of a principal matter of the Buyer, the Buyer, by accepting these Conditions, assigns in advance his title to the new item to the Seller.
- 8.4 Buyer shall adequately store any goods to which Seller retains title. Buyer shall procure commercially reasonable insurance at his expense against loss and damage. By accepting these Conditions, the Buyer assigns in advance to the Seller any claims which may accrue to him under the insurance policies.
- 8.5 While the Buyer duly meets his liabilities to the Seller, he shall have the right, in the normal course of business, to sell the goods that are subject to a retained title during the normal course of business. This shall not apply, however, if he and his customers have concluded an agreement according to which the Buyer must not assign his claims on them to third parties. The Buyer shall not have the right to pledge, chattel mortgage or otherwise encumber the goods to which the Seller retains title. When reselling the goods, the Buyer shall retain title until full payment of the goods by his customers.
- 8.6 By accepting these Conditions, the Buyer assigns in advance to Seller any claims which may arise from a resale of the goods to which the Seller retains title, together with any incidental rights and security interests, to provide Seller with security for all claims he has on Buyer as result of the business connection. If goods to which the Seller retains title are sold together with other goods at a single price, the assignment shall be limited to the portion of the invoice value which covers the goods to which the Seller retains title. If the Buyer sells goods of which the Seller has co-ownership pursuant to section 8.3, the assignment shall be limited to the portion of the invoice value which corresponds to the Seller's co-ownership. If the Buyer uses goods to which the Seller retains title for processing a third party's product on a contract basis, he assigns in advance his contractual claim on the third party to the Seller to provide him with security for his claim. If Buyer duly meets his liabilities to the Seller, he may collect claims from a resale or from contract processing himself. He shall not have the right to assign or pledge such claims as security.
- 8.7 If the value of the security provided to the Seller exceeds the value of the claims to be safeguarded by more than 20 percent, Seller shall, at Buyer's request, release a portion if his security accordingly.

## 9 Payment

- 9.1 Seller's invoices are due for payment immediately upon receipt by Buyer without any deductions or discounts.
- 9.2 Buyer shall not be entitled to pay Seller in cash.
- 9.3 Buyer shall pay Seller via bank transfer. Buyer shall bear all payment-related banking fees.
- 9.4 Seller reserves the right to use payments for the settlement of the invoices which have been outstanding longest, plus any interest on arrears and costs accrued thereon, in the following order: costs, interest, principal claim.
- 9.5 Buyer shall not have the right to withhold payments based on claims resulting from other contracts. Counterclaims may only be offset if they are uncontested or have become res judicata.

## 10 Force Majeure, Impediments to Performance

- 10.1 If either Party is unable to contractually perform its obligations due to a force-majeure event, it shall be relieved from performance for the duration of the event plus a reasonable period to resume operations.
- 10.2 Force-majeure events are all events outside of the reasonable control by either Party, such as natural disasters, fires, floods, acts of terrorism, pandemics, utility interruptions, strikes and unforeseen labor or raw material shortages as well as comparable events beyond a Party's reasonable control. An unforeseeable interruption of Seller's manufacturing process shall also be regarded a force-majeure event.
- 10.3 If the hindrance delays supply and/or acceptance by more than eight weeks, either Party shall have the right to rescind the contract. If Seller's suppliers fail to supply him in whole or in part, Seller shall not be under obligation to purchase from other sources. In such cases, Seller shall have the right to distribute the available quantities among his customers in consideration of his captive requirements.

## 11 Warranty

- 11.1 When noticing a visible defect, Buyer shall inform Seller in writing within two weeks after delivery and provide Seller with all relevant details (including shipment information, invoice number, samples and packaging slips and the markings on the packaging).
- 11.2 Buyer must report a hidden defect to Seller immediately upon discovery. Buyer shall have the burden of proof for any hidden defect.
- 11.3 Buyer shall not return any goods that are subject to a quality complaint to the Seller unless Seller has authorized such return.
- 11.4 In case of a warranty claim, Buyer shall be entitled to a replacement shipment only. If the replacement shipment is also defective, Buyer may reduce the purchase price or rescind from the contract. Claims for damages as defined in section 13 shall remain unaffected.
- 11.5 Claims for expenses incurred by Buyer because of reworking, in particular transport, travel, labor, and material costs, shall be excluded to the extent they were increased by onward transportation to facilities not owned by Buyer, unless the goods were supplied to this location in line with their intended use.
- 11.6 In the event of recourse to the guarantee by Buyer following a successful claim against Buyer based on statutory provisions governing the purchase of a

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consumer good, the claims under a right of recourse in accordance with the regulations on the purchase of consumer goods shall remain unaffected. Section 13 shall apply to any claim for damages.

- 11.7 Buyer must inform Seller without delay of any case of recourse within the supply chain. Statutory claims under a right of recourse by the Buyer against the Seller shall not apply with respect to arrangements entered by Buyer with its customer over and above statutory warranty claims.
- 11.8 Any specific warranty or guarantee must be issued in writing by Seller. It shall only be enforceable if it describes its content, duration, and physical scope in sufficient detail.

### 12 Properties of Goods, Technical support

- 12.1 The properties of the goods shall generally only include the properties as stated in the product descriptions, specifications, and labeling of Seller. Public statements, claims or advertising shall not be classed as information on the properties of the item for sale.
- 12.2 Technical advice (referring to application) provided by the Seller verbally, in writing and/or by way of trials is given in good faith but without warranty, and this shall also apply where proprietary rights of third parties are involved. The Seller's technical advice shall not release the Buyer from the obligation to test the products supplied by the Seller as to their suitability for the intended processes and uses. The application, use and processing of the products are beyond the Seller's control and therefore entirely the Buyer's responsibility.

### 13 Limitation of Liability

- 13.1 Seller's liability shall not be limited for damages caused by intent, gross negligence, injury to life, body or health, malicious concealment of a defect, assumption of a guarantee or a procurement risk or any mandatory statutory liability, including under the German Product Liability Act.
- 13.2 Seller's liability for damages caused by slightly negligent breach of material obligations of this Agreement, meaning obligations that a) enable the fulfilment of this Agreement, and b) on whose fulfillment the Customer generally relies on and is entitled to rely on, shall be limited to the typically foreseeable damage.
- 13.3 The Parties agree that the typically foreseeable damage shall equal fifty percent of the net remuneration received by Seller under this contract.

13.4 Any further liability of Seller to Customer shall be excluded. Specifically, Seller's liability for any indirect or consequential damages shall be excluded for damages caused by slight negligence.

13.5 All claims of Customer against Seller shall become statute-barred one year after knowledge of the facts giving rise to the claim, but no later than three years after performance of the service, unless Seller's liability is unlimited according to section 13.1.

### 14 Confidentiality

14.1 Buyer shall treat as confidential any Seller-supplied documents, data, prices, terms of reference, business processes or other information. Buyer shall make confidential information available only to those employees who need the information for the fulfillment of their duties and shall ensure that such employees are also subject to a duty to treat such information as confidential. Buyer shall use this information exclusively for the purpose of performing the deliveries and services. For the avoidance of doubt, this shall not preclude Buyer from subcontracting.

### 15 Assignment

- 15.1 This agreement may not be assigned by either Party without the prior written consent of the other Party.
- 15.2 Seller may assign this agreement to an affiliated company, meaning any entity which directly or indirectly controls, is directly or indirectly owned, or controlled by, or under common control with Seller.

### 16 Applicable Law

- 16.1 Customary trade terms shall be interpreted in accordance with Incoterms 2020.
- 16.2 German law shall apply. Venue shall be Düsseldorf. Seller shall furthermore be entitled to sue the Buyer at his general place of business.
- 16.3 Place of performance for delivery shall be the Seller's dispatch department. Place of performance for payment shall be Düsseldorf.
- 16.4 The UN Convention on Contracts for the International Sale of Goods shall not apply.
- 16.5 Should any clause in these General Conditions for Sale be or become invalid in full or in part, this shall not affect the validity of the remaining clauses or remaining parts of the clause concerned. The parties shall replace any invalid arrangement by an effective one which conforms as far as possible to the economic purpose of the invalid clause.