

General Terms and Conditions of Sale



§ 1 General, Scope of Validity

1. The following terms and conditions of sale are binding for all offers, acceptances of offers and deliveries by our company. They are also applicable for all future business relations between us and the ordering party.
2. Our terms and conditions of sale apply exclusively. Unless we have expressly agreed in writing to their validity, contradictory or other deviating terms and conditions of the customer will not be accepted by us and thus regarded as not being agreed upon. Our terms and conditions of sale also apply when, in the knowledge of contradictory or other terms and conditions of the customer, we affect delivery to the customer without reservation. With acceptance of the goods, the customer also waives application of his general terms and conditions, in the event also that these claim exclusivity.
3. All agreements reached between us and the customer for the purpose of the execution of a contract are to be recorded in the contract in written form. In as far as oral agreements exist, these are only effective when confirmed in written form.
4. All legal relationships between us and the customer are subject exclusively to the legislation of the Federal Republic of Germany under exclusion of the CISG.
5. In as far as personal data is processed, data processing is affected only in accordance with the provisions of the Federal Data Protection Act and other regulations governing data protection.
6. In the event that the customer submits drafts, samples, patterns or similar then these are free of charge and constitute no obligation and, in particular, no liability for loss, damage or impairment of the drafts, samples or patterns will be accepted.

§ 2 Offer, Bidding Documents, Conclusion of Contract and Technical Specifications

1. Orders submitted by customers, in as far as these are qualified as offers, must be accepted by us for an effective conclusion of contract. Acceptance by us must be affected within two calendar weeks of receipt of the order in our company. In the event that there is no acceptance issued, the contract has not been concluded and the customer can derive no rights from his order. The customer possesses no unilateral right in regard to the delivery date. In the event that the customer unilaterally specifies the date of delivery then such is invalid for us.
2. We retain the right to exercise our right of ownership and intellectual property rights in regard to illustrations, drawings, technical drawings, calculations and other documents. This also applies in the case of such documents as are specified as being confidential. The customer must obtain our express written approval prior to transmitting these to third parties. Documents in the sense of this agreement also encompass such as are stored on data storage medium or EDP equipment of any kind. Confidentiality towards third parties is to be maintained in regard to the information which is transferred to the customer. This non-disclosure agreement is also applicable following execution of the contract.
3. Until delivery we retain the right at all times to effect technical amendments to our products which do not constitute a deterioration, i.e., which conserve or increase the value and which lead to no impairment in function. It is also agreed that this applies to the inclusion of standard tolerance values. Correspondingly, we are entitled to apply the regulations regarding technical performance characteristics or measurements while maintaining normal standard tolerance values.
4. Technical specifications and information which are supplied by the customer and on which the manufacture and/or delivery of the subject of the contract are based or which are

based at the request of the customer must not be reviewed by us.

5. We are entitled to base the manufacture and delivery of the contractual product on technical specifications or product descriptions, and product characteristics. Basing these on such does not constitute a breach of obligation on the part of our company. The customer warrants that no proprietary rights of third parties are violated in the case that we are to affect delivery in accordance with technical drawings and/or using parts supplied by the customer. The customer is obligated to inform us of any existing proprietary rights or other rights of which he is aware. In the event that claim is raised against us by a third party, on immediate written demand, the customer is obliged to indemnify us from such claims. In addition, the customer is obligated to reimburse us for any damage incurred by our company in connection with the violation of proprietary rights. The obligation of the customer to effect indemnification refers to all expenses which we necessarily incur from or in connection with a claim raised by third parties. Without the approval of the customer we are not entitled to enter into any agreement with a third party and, in particular, a settlement. The statutory period of limitation in connection with claims arising from proprietary rights on our part against our customer amounts to ten years as of the conclusion of the contract.

§ 3 Prices, Terms of Payment

1. Unless as agreed otherwise as specified in our acknowledgement of order our prices apply for delivery from the place of business of our company (ex works). In the event that the customer wishes that the goods be delivered, transport costs will be invoiced separately.
2. The legal value added tax is not included in our prices. This will be specified separately in the invoice at the legal rate applicable on the date of invoicing. Invoices are payable net without deduction immediately as of the date of invoice. A deduction of a discount or a longer term of payment requires a separate written agreement.
3. Partial deliveries and partial performance can be invoiced separately. Payments are set off against the oldest debt independent of any other alternative amortization specified by the customer.
4. Right of offsetting against claims due to us is excluded unless this is the case of an undisputed or legally determined claim of our customer. The customer is only entitled to execute his right of retention to the extent that his counterclaim involves the same contractual relationship.
6. The ordering party enters into default at the latest 30 calendar days following the due date for invoice payment. Interest for default of an amount of 8% above the valid prime lending rate of the German Federal Bank on the amount of invoice is due for payment. The right to assert claims for further damage caused by delay remains reserved.
7. If, following conclusion of the contract, it becomes evident for us that the service in return is endangered by lack of performance on the part of the customer (e.g. by nonpayment of earlier invoices/orders) we are entitled to make our delivery dependent upon the previous service in return or to refuse performance on our part (obligation on the customer's part to effect advance performance). We are further entitled to set the customer a reasonable deadline within which to provide advance performance and on expiration of this term without success we are entitled to withdraw from the contract.

§ 4 Terms of Delivery

1. The commencement of the delivery time specified by us is dependent upon the clarification of all technical questions and

General Terms and Conditions of Sale



– if required – submission of the total size key (quantity apportionment per size). A further prerequisite for maintaining our delivery commitment is the proper fulfillment of the obligations of the customer and, in particular, fulfillment of any existing obligation to cooperate. The plea of non-performance of contract remains reserved.

2. Terms of delivery are quoted by us to the best of our knowledge. However, they are not binding. Delivery terms and deadlines specified by us by no means constitute fixed dates in the sense of the law (§ 376 HGB). The customer possesses no right to unilateral determination of the delivery date. In the event that the customer specifies a unilateral delivery date then this is invalid.

3. Our delivery is affected subject to our obtaining supplies ourselves. We will inform the purchaser immediately in the event that supplies are not delivered to us. In such event, the purchase contract is regarded as not being concluded. An acquisition risk undertaken by us does not exist. In the event that delivery of supplies to us is temporarily not affected and the end of the interruption is foreseeable then the date of delivery is extended by the length of the disruption and its effect.

4. Partial deliveries are permissible for us at all times. In addition, a reasonable deviation in the volume of the order of up to +/- 10 % of the order quantity is also permissible. In such cases, the purchase price will be adapted in accordance with the altered quantity.

5. In the case that the customer is in default of acceptance or culpably breaches his obligations to cooperate we are entitled to demand compensation for damages incurred by us including any possible additional expenses. We reserve the right to make additional claims. Optionally, we can substantiate the damage or, without evidence, demand a lump-sum claim for damages of an amount of 30 % of the net value of the delivery not accepted plus expenses as compensation. In addition, the risk of accidental loss or deterioration of the purchase item passes to the customer at the point in time at which he enters into default of acceptance or there is default of the debtor.

6. We are liable in accordance with legal regulations in as far as the delay in delivery for which we are responsible is the result of a culpable breach of a major contractual obligation. In such case, however, the liability for damages is limited to foreseeable, typically occurring damages. In the event that the date of delivery is exceeded by more than one month, the customer can, to the exclusion of all other claims, withdraw from the contract. Prerequisite for the withdrawal is that prior to this the customer has set us a reasonable period of grace for delivery. In such event, the customer cannot undertake any covering purchase and may only make claim for damage under the aforementioned restriction.

§ 5 Passage of Risk

1. Agreement is made with the customer to effect delivery ex works (costs and risks are transferred to the customer with the handover to the customer or the handover to the forwarding agent). Other arrangements necessitate express written agreement.

2. In as far as the customer wishes that goods be sent, the risk passes to the customer even in the case of carriage paid deliveries on dispatch of the goods to the customer.

3. The acceptance of returned packaging material is subject to charge. In as far as the customer wishes that packing material is returned we will charge an appropriate lump sum charge.

4. In the event that no express written instructions are agreed for the consignment, dispatch route, mode of dispatch and packaging will be determined by us.

5. In as far as the customer so wishes, we will cover the delivery by means of transport insurance, the costs involved in such will be borne by the customer.

§ 6 Liability for Defects

1. The warranty rights of the customer imply that he has properly complied with the obligatory examination requirements in accordance with § 377 HGB. In the case of a deficiency claim this is then only the case when the deficiency claim is in regard to an apparent defect when receipt of such is received by us within five workdays of receipt of the goods by the customer. In the case of failure to observe the time limit the customer loses his claim to supplementary performance or warranty claim against us. Latent defects are to be reported to us immediately following discovery and complaint made.

2. A special intended purpose for the subject matter of the contract is only then regarded as being agreed upon when an express written agreement has been made between us and the customer in regard to such.

3. Guarantees are only effective when these are given in writing. Reference to performance and goods designations or technical standards does not imply a special suitability of the goods in excess of the normal possibilities of usage of the subject of the contract and does not represent a warranted characteristic.

4. In as far as there is a defect in the article of purchase the customer is, at his own choice, entitled to choose either supplementary performance in the form of rectification of the defect or delivery of a new article free of defect. The expense necessary for this such as, for example, wages and salaries, material, transport and travelling costs are borne by our company in as far as these costs are not increased as a result of the subject matter of the contract being subsequently moved to another place other than the place of delivery or performance. An exemption is present when this move complies with usage as specified in the terms of the contract. The return shipment of the subject of the contract to us which is necessary in the case of a defect can only be undertaken with our prior approval. We are not required to accept returns without our prior approval. In such case the customer will bear the costs of the return shipment.

5. In the event that the initial subsequent performance proves unsuccessful, the customer is only then entitled to demand withdrawal or a reduction when, in spite of a reasonable period of grace for a further subsequent performance attempt this is also unsuccessful or the second subsequent performance attempt is not undertaken by us in spite of a period of grace being set.

6. In the case that the customer makes claim for damages we are only liable when this is the case of willful intent or gross negligence on our part or on the part of our representatives and auxiliary persons. In as far as we are not responsible for a deliberate violation of contract the liability for compensation is limited to damages which are foreseeable and typical.

7. Claims for damages due to impossibility to perform, breach of an obligation other than by delay or impossibility, from culpa in contrahendo and from tortious act are excluded both in our case as in the case of auxiliary persons and vicarious agents in as far as no intentional or grossly negligent action is involved and in as far as this is not already covered elsewhere in these General Terms and Conditions.

8. We are liable for claims for compensation for damage to property of all kinds only in the case of intent and gross negligence.

9. Unless specified otherwise in the foregoing liability is – as far as is legally permissible – excluded.

10. The statutory period of limitation for warranty claims amount to twelve months as of the passage of the risk.

General Terms and Conditions of Sale



§ 7 Joint and Several Liability

1. An additional liability in the case of compensation for damages other than that specified in § 6 is – irrespective of the legal nature of the asserted claim – excluded. This applies also in the case that the customer, instead of demanding a claim for replacement of the damage instead of performance, demands reimbursement of useless expenses.
2. To the extent that liability for claims for damages for us is excluded or is limited then this is applicable in regard to personal liability for claims for damages on the part of our employees, workers, staff, representatives and vicarious agents.

§ 8 Retention of Title

1. The subject matter of the contract remains our property until all payments involved in the business relationship have been received including all incidental claims. In the case of conduct by the customer in violation of the contract, in particular, in the case of default in payment we are entitled to take back the object of sale. In the case that we take back the object of sale this constitutes a revocation of contract. Following our taking back the object of sale we are entitled to make us of such. The yield from the realization is – minus reasonable recovery costs - to be offset against the liabilities of the customer.
2. The customer is obliged to handle the object of sale with due care.
3. The customer may neither pledge nor transfer ownership in the way of security. We must be informed immediately of any seizure of the merchandise delivered subject to reservation of title by third parties. In the event that the third party is not in a position to recompense us for judicial and extrajudicial cost of an action in accordance with § 771 ZPO (Code of Civil Procedure) then the customer is liable for the loss incurred.
4. The customer is entitled to sell the object of sale further in the normal course of business. However, at this point, the customer assigns all claims to us to an amount of the final amount of invoice (including value added tax) which arise in the course of the further sale against his purchaser or third party. This is independent of whether the object of sale is sold further with or without further processing. The customer today assigns all claims against the purchaser from the further sale as security. Until receipt of the claims the customer remains authorized and obligated for as long as we do not refute this authorization. The authorization for collection of the customer terminates without express notice on our part when the customer discontinues his payments. We will not avail ourselves of our power of collection as long as the customer complies with payment obligations. In the event that the customer enters in default of payment or an application for the opening of composition proceedings or insolvency proceedings is entered or in the case that the customer ceases to effect payment he is obliged to inform us of his debts in regard to the assigned claims and to supply all necessary information to execute collection, to provide the necessary documentation and to inform the debtor (third party) of the assignment. Further sale outwith the normal course of business is forbidden.
5. Processing or transformation of the object of sale by the customer is always undertaken on our behalf. In the case that the object of sale is processed together with other objects which do not belong to us then we acquire co-ownership in the new product in relation to the value of the object of sale to the other objects being processed as at the time of processing. The same applies to the object created through processing as for the object of sale delivered subject to reservation.

6. In the event that the object of sale is combined inseparably with other objects which do not belong to us, then we acquire co-ownership in the new product in relation of the value of the object of sale to the other objects with which it is mixed at the time of mixing. In the event that mixing is carried out in such manner that the object of the customer is seen as being the main object then it is agreed that the customer will assign us co-ownership in the appropriate relation. The customer will hold the sole property thus created or co-ownership in safe custody for us.

§ 9 Legal Venue and Place of Performance

1. Place of performance and legal venue for all commitments arising in connection with our deliveries is our place of business. This legal venue is also applicable in the case of claims in a the case of an exchange of a bill or check proceedings. However, we are also entitled to take legal proceedings against the customer at his legal venue.
2. In the case of discontinuance of payment on the part of the customer or the application being made for insolvency proceedings in regard to the assets of the customer we are entitled to withdraw from the contract either fully or in part.
3. Should any of these conditions be invalid either as a whole or in part, the effectiveness of the of the remaining conditions remains unaffected. The rulings not affected by the invalid condition remain in force in full.