

GENERAL TERMS AND CONDITIONS



All current and future agreements, offers and orders in the company are based on the following General Terms and Conditions. Differing, conflicting or supplementary general terms and conditions of the Customer do not constitute part of the contact, unless their applicability is expressly agreed to in writing. Otherwise, exclusively our General Terms and Conditions shall apply.

1. Ordering and order acceptance

(1) Our offers are non-binding and subject to change without notice, unless expressly agreed to otherwise. They are subject to technical changes and changes in shape, colour and/or weight within a reasonable scope. We reserve the right to provide excess or short deliveries of up to 10%. Furthermore, authorised and excess or short deliveries by suppliers, which are allowed under the General Terms and Conditions, are provided in excess or short delivery in the same scope. The execution of the order takes place in the context of technically necessary materials and process engineering tolerances. We reserve the right to deviations in the quality of materials in accordance with the delivery terms of the suppliers.

(2) By ordering the goods, the Customer makes a binding declaration of intent to purchase the ordered goods. We are entitled to accept the contractual offer contained in the order within 2 weeks of receipt. The acceptance can be declared either in writing or by delivering the goods to the Customer. All orders issued to us either directly by the Customer or through sales representatives require acceptance, unless it concerns a cash transaction.

(3) The conclusion of contract is subject to correct and timely delivery on the part of our suppliers. The Customer will be informed immediately regarding the unavailability of the service. Provided that the non-delivery is not attributable to us, in particular where a congruent hedging transaction is concluded with our suppliers, we shall be exempt from our performance obligations to the extent that these have been correspondingly hindered or delayed.

2. Delivery and delivery times

(1) The agreed delivery times are approximate times. Agreements regarding fixed deadlines are valid only upon our express written confirmation.

(2) The agreed delivery times start no earlier than the date of order confirmation. However, the delivery period starts only when all documents and other records required for the execution of the order are at our disposal. So long as the Customer is in arrears with its pre-performance obligations we shall be exempt from our delivery obligation. In case of culpable failure to comply with an agreed delivery time, the delivery is deemed to have been delayed only after the expiry of a reasonable grace period.

(3) In case of force majeure – this includes such circumstances and events that cannot be prevented with the due diligence of prudent business management – the contractual obligations of the Parties shall be suspended for the duration of the disruption and the extent of its impact. Should the resulting delays exceed a period of ten weeks, both Contracting Parties shall be entitled to withdraw from the contract with respect to the affected scope of the performance. Other claims are excluded.

3. Price, terms of payment

(1) All prices are fixed prices plus statutory VAT. Unless otherwise agreed, our deliveries are ex works, excluding packaging, transport insurance, freight and installation. They are based on the wage and material costs and manufacturers costs and sales tax charges applicable at conclusion of the contract. If after the conclusion of the contract there should be changes in the calculation basis due to higher wage and material costs or manufacturing costs, sales tax charges, or due to other circumstances, in particular calculation changes for technical reasons, we shall be entitled to a price change in appropriate ratio to the changes occurring in the calculation basis.

Alternatively, we are entitled to withdraw from the contract. This also applies to blank or call-off orders, unless expressly agreed otherwise in the contract.

(2) The prices offered are binding and are payable net within 14 days after receipt of the delivery or provision of services.

(3) In case of default, the Customer must pay interest on the debt at the rate of 8% above the base rate. We reserve the right to claim and provide evidence for higher amount of damage caused by the delay.

(4) In the event of payment arrears and justified doubts as to the solvency or creditworthiness of the Customer we are entitled – without prejudice to our other rights – to demand securities or advance payments for outstanding deliveries, to send the goods by cash on delivery even if other payment terms have been agreed and to make all claims arising from the business relationship due immediately. Only undisputed or legally established claims entitle the Customer to offsetting or retention. The Customer may exercise a right of retention only if its counter-claim is based on the same contractual relationship.

4. Place of performance, shipping, assumption of risk, transfer of risk

(1) Place of performance is our place of business.

(2) If the goods are to be sent to a location other than the place of performance upon the request of the Customer, the Customer shall be separately billed for the cost of packaging and transport. The risk of accidental loss and accidental deterioration of the goods, in case of the purchase to destination, is transferred to the Customer upon the hand-over to the shipper, carrier or otherwise to the person or institution specified to perform the shipment. The hand-over shall be deemed to have taken place even if the Customer is in default of acceptance.

5. Warranty

(1) Buyer's right regarding material and legal defects (including wrong and short delivery as well as improper assembly or faulty assembly instructions) are governed by statutory provisions, unless specified otherwise hereinafter. Special statutory provisions shall in any case remain unaffected in case of final deliveries of goods to a consumer (Supplier recourse acc. §§ 478, 479 of the German Civil Code-BGB).

(2) The basis for our defect liability is above all the agreements made regarding the quality of the goods. As regards the quality of the goods solely our product description shall be deemed as agreed, to the extent they are made subject of individual contracts.

(3) If the quality has not been agreed to, it should be assessed in accordance with statutory regulations whether there is a defect or not (§ 434 paragraph 1 Sentence 1 and 3 BGB). We do not assume any liability with respect to public statements made by the manufacturer or other third parties (e.g. advertising statements).

(4) Defect claims on the part of the Buyer require that it has met its statutory inspection and complaint obligations (§§377,381 HGB). If a defect is detected during or after the inspection, we must be informed accordingly immediately in writing. The notification is deemed to have been made immediately when it is made within two weeks, whereby the timely despatch of the notification suffices. Regardless of this inspection and notification obligation the Buyer must report obvious defects (including wrong and short delivery) within two weeks after delivery, whereby the timely dispatch of the notification is again considered sufficient. If the Buyer fails in performing proper inspection and/or report defects, our liability for defects not notified is excluded.

(5) If the delivered items are defective we can first decide whether we provide subsequent performance by remedying the defect (repair) or by delivery of faultless item (replacement delivery). Our right to refuse subsequent performance pursuant to statutory requirements remains unaffected.

(6) We are entitled to make owed subsequent performance depend on the Buyer paying the purchase price due. However, the Buyer is entitled to retain a reasonable portion of the purchase price in relation to the defect.

- (7) The Buyer has to provide us with the required time and opportunity for the due subsequent performance, in particular in order to hand over the rejected goods for verification purposes. In case of replacement delivery the Buyer must return the defective goods in accordance with statutory regulations. Subsequent performance entails neither the removal of the defective items, nor the installation, if we were not initially obligated for installation.
- (8) If the subsequent performance has failed, a reasonable grace period set by the Buyer has expired or is irrelevant under statutory regulations, the Buyer may withdraw from the purchase contract or reduce the purchase price. There is no right of withdrawal in case of an insignificant defect.
- (9) The Buyer may not assert claims for compensation or reimbursement for futile expenses in accordance with item 6 and are otherwise excluded.

6. Re-storage fee

We are authorized, should we voluntarily as an act of good will accept returned goods from a client, to charge a re-storage fee.

The fee shall be a lump sum of EUR 15 for goods worth up to EUR 100.

Should the value of the goods returned exceed EUR 100, then the re-storage fee shall be 15% of the value of the goods returned to us.

This shall apply to the extent that no other figure has been agreed for returned goods.

7. Other liability

(1) Unless stated otherwise in these General Terms and Conditions including the following provisions, we shall be liable for any breach of contractual non-tariff obligations in accordance with applicable statutory regulations.

(2) We assume liability for compensation – irrespective of their legal grounds – in case of intent or gross negligence.

In case of slight negligence we shall be liable only

a) for damages resulting from injury to life, body or health

b) for damages arising from breach of an essential contractual obligation (obligation, the fulfilment of which renders a correct execution of the contract and on whose compliance the Contractual Partner regularly relies and may rely); in this case, our liability shall be limited to compensation for the foreseeable, typically occurring damages.

(3) The liability limitations implied by paragraph 2 shall not apply, if we have concealed a defect fraudulently or assumed responsibility for the quality of the goods. The same applies to the claims of the Buyer under the Product Liability Act.

(4) The Buyer may withdraw or terminate due to a breach of obligation, which does not result from a defect, when we are responsible for the breach of obligation. A free right of termination of the Buyer (in particular according to §§ 651, 649 BGB) is excluded. Otherwise, the statutory requirements and legal consequences shall apply.

8. Retention of title

(1) We reserve title to the goods until full settlement of all claims from ongoing business relationships with the Customer, hence until full payment for all of our claims including ancillary claims and claims for damages. Payment by check does not terminate the retention of title until the irrevocable value date.

(2) The Customer is obligated to inform us immediately if a third party gains access to the goods, such as in the case of pledges or in case the goods are damaged or destroyed. The Buyer must inform us immediately in the event of change of ownership of the goods and its change of residence. The Customer shall inform us immediately in case of pledging and seizures or other dispositions by third parties. We must be immediately informed with all the information when we need a third-party interpleader in accordance with § 771 German Code of Civil Procedure (ZPO). The Customer shall be liable if we suffer losses because a third party cannot pay for the court or out of court

costs of the action in accordance with § 771 ZPO to be reimbursed to us. The Customer may neither pledge nor assign the delivery item without our prior consent.

(3) We are entitled to withdraw from the contract and reclaim the goods in the event that the Customer acts in breach of contract, in particular in case of default of payment or breach of an obligation under paragraph 3 and 4 of this provision.

(4) If we authorise the Customer to resell the goods in the ordinary course of business, the Customer hereby assigns to us all claims in the amount of the invoice which arise against third parties from the resale. We herewith accept the assignment. The Customer shall be authorised to collect the claim after the assignment. However, we reserve the right to collect the claim ourselves as soon the Customer does not meet its payment obligations and falls into arrears.

(5) The handling and processing of goods by the Customer is always carried out in our name and on our behalf. If the processing is carried out with items not belonging to us, we shall acquire co-ownership of the new goods in proportion of the value of the goods delivered to us to the other processed objects. The same applies if the goods are mixed with other objects not belonging to us.

(6) The Customer shall insure the reserved goods adequately, in particular against fire and theft.

9. Period of limitation

(1) Notwithstanding § 438 paragraph 1 No. 3 BGB, the general period of limitation for claims for material and legal defects is one year from the delivery. If acceptance has been agreed, the period of limitation begins with the acceptance.

(2) The foregoing period of limitation for the right to purchase shall also apply to contractual and non-contractual claims for damages by the Buyer which are based on a defect in the goods, unless the application of the regular statutory period of limitation (§§ 195.199 BGB) would result in a shorter period of limitation in individual cases. The periods of limitation of the product liability law remain unaffected in any event. Otherwise, the statutory periods of limitation shall exclusively apply for claims for damages of the Buyer in accordance with paragraph 6.

10. Miscellaneous

The invalidity of one of the clauses of these Terms shall not affect the remaining provisions. In such cases, one of the regulations which economically come closest to the invalid clause shall apply; alternatively the provisions of BGB are applicable.

11. Applicable law and jurisdiction

(1) These General Terms and Conditions as well as all legal relations between us and the Buyer are governed by the Law of the Federal Republic of Germany, in exclusion of the international uniform law, in particular the UN Sales Convention. The prerequisites for and the effects of retention of title in accordance with item 7 shall be governed by the law in force at the place where the items are stored, if a choice of law made in favour of German law is inadmissible or ineffective.

(2) If the Buyer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or special fund under public law, our registered office in Bad Urach shall be the exclusive place of jurisdiction – including internationally – for all disputes arising directly or indirectly in connection with this contractual relationship. However, we are also entitled to file action in the general jurisdiction of the Buyer.