

Conditions of sale

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Section 1 General, scope of application

1. Our conditions of sale apply exclusively. We do not recognise any terms and conditions of the customer that contradict or deviate from our conditions of sale unless these have been expressly agreed to. This consent must be in writing.
Our conditions of sale shall also apply if we deliver the product to the customer without reservation and we are aware of opposing terms and conditions of the supplier or such terms which differ from our conditions of sale.
2. Our conditions of sale shall only apply to companies as defined in Section 310 (1) BGB (German Civil Code).
3. All agreements made between us and the customer for the purpose of this contract are contained in writing in this contract.
4. Our sales conditions also apply to all future transactions with the customer.

Section 2 Offer, offer documents and scope of delivery

1. Our offer is subject to change and non-binding.
2. We retain the property rights and copyright to all samples, illustrations, drawings, costings or other documents transmitted or provided. This applies to both tangible and intangible information and expressly includes the electronic form.
The customer must receive our express written consent before passing such information on to third parties.
3. We reserve the right to make changes to the design and form of the purchased item, provided that the purchased item is not significantly altered and the changes are reasonable for the customer.

Section 3 Prices and terms of payment

1. Unless the order confirmation states otherwise, our prices are 'ex factory', excluding packaging and unloading, which shall be invoiced separately.
2. We reserve the right to change our prices accordingly if after conclusion of the contract, cost reductions or cost increases occur, especially due to collective agreements or material price changes. We will provide the customer with the proof on request.
3. Our prices are always indicated as net prices. This means that the statutory value-added tax is not included in our prices and is shown separately on the invoice at the statutory rate on the day of invoicing.
4. A special written agreement is required for the deduction of a cash discount.
5. Unless the order confirmation states otherwise, the purchase price is immediately due for payment without any deductions. The statutory provisions regarding the consequences of late payment shall apply.
6. The customer only has a right to offsetting if his counterclaims are legally established, undisputed or recognised by us.
Furthermore, he has the right of retention insofar as his counterclaim is based on the same contractual relationship.

Section 4 Delivery time

1. The start of the delivery time specified by us (delivery deadline, delivery date) requires the clarification of all commercial, organisational and technical issues beforehand.
2. Compliance with a delivery deadline or a delivery date is subject to correct and punctual supply by our suppliers. We shall notify the customer as soon as possible of any impending delays.
3. Compliance with a delivery deadline or a delivery date presupposes that the customer has properly fulfilled his obligations on time.
We reserve the right to the defence of non-performance of the contract.
4. If the customer defaults on acceptance or culpably violates other cooperation obligations, we are entitled to compensation for damages in this respect, including any additional costs. We reserve the right to make further claims.
5. Provided that the conditions of Para. 4 are met, the risk of accidental loss or accidental deterioration of the purchased item is transferred to the customer at the time that he defaults on acceptance or payment.
6. We shall be liable in accordance with the statutory provisions if the underlying purchase contract is a fixed-date transaction according to Section 286 (2) No. 4 BGB (German Civil Code) or Section 376 HGB (German Commercial Code).
We shall be liable in accordance with the statutory provisions if, as a consequence of a delay in delivery for which we are responsible, the customer is entitled to claim that his interest in the further fulfilment of the contract has ceased.
7. We shall also be liable in accordance with the statutory provisions if the delay in delivery is due to an intentional or grossly negligent breach of contract for which we are responsible. Any fault on the part of our representatives or vicarious agents shall be attributed to us. Insofar as the delay in delivery is not due to an intentional breach of contract for which we are responsible, our liability for damages shall be limited to foreseeable and typical damage.
8. We shall also be liable in accordance with statutory provisions insofar as the delay in delivery, for which we are responsible, is due to the culpable breach of a material contractual duty; in this case, however, our liability for damages shall be limited to foreseeable and typical damage.
9. Apart from that, in the event of a delay in delivery, we shall be liable for each completed week of the delay to pay lump-sum compensation for damage resulting from delay in the amount of 0.5% of the value of the goods to be delivered, but not more than 5% of the value of the goods to be delivered.
10. Further legal claims and rights of the customer are reserved.

Section 5 Transfer of risk and packaging costs

1. Unless the order confirmation states otherwise, delivery is agreed as 'ex factory'.
2. Transportation and all other packaging according to the packaging regulations cannot be returned except for pallets. The customer is obliged to dispose of the packaging at his own expense.
3. If the customer so wishes, we shall arrange for insurance cover for goods in transit; the costs incurred shall be borne by the customer.
4. Partial deliveries are permissible if they are reasonable for the customer.
5. The risk shall pass to the customer when the goods have left the factory, and also when partial deliveries are made or if we have assumed other services, such as shipping costs or the delivery and installation in exceptional cases.

6. If acceptance is required to take place, it is decisive for the transfer of risk. It must be carried out without delay on the acceptance date or, alternatively, following our notification of readiness for acceptance.
7. If shipping or acceptance is delayed or not performed owing to circumstances for which we are not responsible, the risk shall pass to the customer on the date of reporting readiness for shipping or acceptance.
8. We undertake to take out any insurance requested by the customer at the latter's expense.

Section 6 Liability for defects

1. Warranty claims of the customer presuppose that the customer has duly fulfilled his obligations to examine the goods and make a complaint in accordance with Section 377 HGB (German Commercial Code).
2. If there is a defect in the purchased item, we are entitled to opt to remedy the defect or to deliver a new item without defects by way of subsequent performance.
If we opt to remedy the defect, we are obliged to bear all the expenses necessary to remedy the defect, particularly costs of transport, travel, labour and materials insofar as there is no increase in these costs caused by transporting the purchased item to a place other than the place of performance. Our obligation to bear the costs of rectifying the defect is in any case limited to the amount of the purchase price.
3. We do not accept any liability for damages resulting from the following:
 - Unsuitable or improper use
 - Unsuitable hydraulic influences
 - Incorrect assembly/installation or commissioning by the customer or third parties
 - Improper maintenance and cleaning
 - Unsuitable operating materials
 - Chemical, electrochemical and electrical influences, unless we are responsible for them.
4. If the customer or a third party carries out improper repairs, we shall likewise not be liable for the consequences arising therefrom. The same shall apply to any modifications to the purchased item if these were made without our consent.
5. We shall be liable in accordance with the statutory provisions if the customer asserts claims for damages based on intent or gross negligence. This includes intent or gross negligence on the part of our representatives or vicarious agents.
Unless we have been accused of intentional breach of contract, liability regarding compensation shall be limited to foreseeable and typical damage.
6. We shall be liable in accordance with the statutory provisions if we culpably violate a key contractual obligation. In this case, however, the liability for damages shall be limited to the foreseeable, typically occurring damage.
7. If the customer is entitled to compensation for damages in lieu of performance, our liability under Para. 3 shall also be limited to the foreseeable, typically occurring damage.
8. Liability for culpable injury to life, limb or health shall remain unaffected. The same applies to the mandatory liability under the Product Liability Act.
9. Liability is excluded unless otherwise stipulated above.
10. The customer's right to assert claims for defects shall in all cases be subject to a limitation period of 12 months from the time of the transfer of risk, and in the case of a consumer transaction, to 24 months. For used goods, we provide a warranty to consumers for 12 months from the transfer of risk, in all other cases only if this has been expressly agreed with the customer.

11. The limitation period for claims for defects is 12 months from the transfer of risk.
12. The limitation period in the case of a delivery recourse pursuant to Section 478 BGB and Section 479 BGB (German Civil Code) shall remain unaffected. It shall be five years, calculated from the date of delivery of the defective item.

Section 7 Joint and several liability

1. Additional liability for compensation other than that provided for in Section 6 is excluded regardless of the legal nature of the asserted claim.
This applies, in particular, to claims for damages arising from a violation of mutual confidence in the preparation of the contract (culpa in contrahendo), owing to any other breaches of duty or due to tortious compensation claims for damage to property pursuant to Section 823 BGB (German Civil Code).
2. The limitation as defined in Para. 1 shall also apply if the customer demands compensation for futile expenses in lieu of claims for damages instead of performance.
3. Insofar as liability for damages to us is excluded or limited, this shall also apply to the personal liability for damages in respect of our salaried employees, employees, members of staff, representatives and vicarious agents.

Section 8 Retention of title

1. We reserve the right to reservation of ownership of the purchased item until all payments arising from the business relationship with the customer have been received. Insofar as we agree with the purchaser on payment of the purchase price debt on the basis of the cheque-bill of exchange procedure, the reservation shall also extend to the cashing by the customer of the bill of exchange accepted by us and does not expire when the check received is credited to us.
In the event of conduct on the part of the purchaser that is in breach of contract, in particular default of payment, we shall be entitled to repossess the purchased item. Our repossession of the purchased object shall not constitute a rescission of contract. We shall be entitled to sell the repossessed purchased item; the proceeds from such a sale shall be offset against the liabilities of the customer after deduction of reasonable costs of sale.
2. The customer is obliged to treat the purchased item with care; in particular, he shall be obliged to adequately insure it at replacement value against fire, water and theft. The costs of this insurance shall be borne by the customer.
Insofar as maintenance and servicing work is required, the customer shall carry out such work in good time and at his own expense.
3. In the event of seizure or other interventions by third parties, the customer must inform us immediately in writing so that we can take legal action in accordance with Section 771 ZPO (German Code of Civil Procedure).
If the third party is not in a position to reimburse us for the court and out-of-court costs of a lawsuit pursuant to Section 771 ZPO (German Code of Civil Procedure), the customer shall be liable for the loss we incurred.
4. The customer is entitled to resell the purchased item in the ordinary course of business. However, the customer hereby assigns to us all claims to the sum of the final invoice amount (including VAT) of our claim, which accrue to him from the resale vis-à-vis his customers or third parties, irrespective of whether the purchased item has been resold without or after processing.
The customer shall still be authorised to collect this claim even after this assignment. Our right to collect the claim ourselves remains unaffected by this. However, we undertake not to collect the claim

as long as the customer meets his payment obligations arising from the proceeds received and he does not fall into arrears with payments and, in particular, that no application has been filed for the initiation of composition or insolvency proceedings or that payments have been suspended. However, if this is the case, we can demand that the customer informs us of the assigned claims and their debtors, that he provides all the information necessary for collection, that he hands over the relevant documents and informs the debtors or third parties of the assignment.

5. The processing or alteration of the object of sale by the customer is always carried out for us. If the purchased item is processed with other objects that do not belong to us, we shall acquire co-ownership of the new object in the ratio of the value of the purchased item (final invoice amount, including VAT) to the other processed objects at the time of processing.

As for the rest, the same shall apply to the object produced by processing as to the purchased item subject to retention of title.

6. If the purchased item is inseparably mixed or combined with other objects not belonging to us, we shall acquire co-ownership of the new object in the ratio that the value of the purchased item (final invoice amount including value-added tax) bears to the value of all of the mixed or combined objects at the time.

If the mixing or combination takes place in such a manner that the customer's object must be considered the main object, it is agreed that the customer transfers proportionate co-ownership to us. The customer shall hold the sole ownership or co-ownership thus created in safekeeping for us.

7. To secure our claims against him, the customer shall also assign all claims against a third party that accrue to him through the connection of the purchased object of sale to a property.
8. We undertake to release the securities to which we are entitled at the request of the customer to the extent that the realisable value of our security exceeds the claims to be secured by more than 10%. The selection of the securities to be released shall be our responsibility.

Section 9 Property rights

1. If the use of the purchased item leads to an infringement of industrial property rights or copyright, we shall basically procure the right for the customer at our expense for him to continue using the product, or modify the purchased item in a manner reasonable for the customer in such a way that the infringement of the copyright no longer exists.

If this is not possible at commercially reasonable terms or within a reasonable period, the customer shall be entitled to rescind the contract. Subject to these conditions we shall also have the right to rescind the contract.

We shall also indemnify the customer from undisputed or legally enforceable claims of the respective property right holders.

2. The obligations to be met by us in terms of Para. 1 shall be conclusive in the event of a property or copyright infringement. They shall only exist
 - o if the customer informs us immediately of any asserted infringements of property rights or copyright,
 - o if the buyer supports us to a reasonable extent in the defence against such asserted claims or enables us to carry out the modification measures in accordance with Para. 1,
 - o if we can reserve the right to take all defence measures including an out of court settlement,
 - o if the property or copyright infringement is not based on an instruction of the customer and
 - o if the infringement was not caused by the customer modifying the purchased item himself or using it in a non-contractual way.

3. The customer has the responsibility to ensure that the goods we produce based on his specifications do not violate the property rights of third parties.

If an allegation of a property rights infringement are made against us by a third party due to the production or supply of such goods, we shall indemnify the customer against all claims.

In such cases we shall only start legal proceedings if the customers so requests and declares his willingness to assume the costs caused hereby. In such cases we are entitled to require security in order to refund the legal costs.

Section 10 Place of jurisdiction and place of performance

1. If the supplier is a merchant, the court of jurisdiction for our head office (49779 Niederlangen, Germany) shall have jurisdiction for all disputes between us and the supplier.
However, we are also entitled to sue the supplier at his place of residence.
2. The law of the Federal Republic of Germany shall apply. The application of the UN Sales Convention (CISG) is excluded.
3. Unless otherwise stated in the order confirmation, our registered office (49779 Niederlangen, Germany) shall be the place of performance.