

General terms & conditions

1. General – Scope of application

The following terms and conditions shall apply to all contracts, which we conclude with our customers. They shall be applicable to legal entities under public law, special funds under public law or businessmen, who on conclusion of the contract are acting in the exercise of their trade or profession, also to future contracts, even if reference is no longer made expressly to these terms and conditions. Deviating terms and conditions of business of our customers shall not be recognised.

This shall apply in particular to conditions for confirmations of orders, invoices and in general correspondence, even if we do not object to them specifically. The acceptance or execution of performances shall not constitute recognition of our customer's contract conditions. Our staff are not authorised to enter into verbal agreements differing from the contract conditions hereunder.

2. Offers – orders

2.1 If the customer's order qualifies as an offer pursuant to Art. 145 of the German Civil Code (BGB), we are entitled to accept this offer within four weeks. Delivery orders, which we carry out immediately, shall not require acceptance in writing. Otherwise jobs and orders shall only be deemed to be binding, when we have confirmed them in writing.

2.2 Our own offers are made without obligation initially and shall not be binding.

2.3 Orders shall only be carried out for the standard packs and quantities stated in the catalogue. In the case of order quantities deviating therefrom, we reserve the right to increase them accordingly or to agree a surcharge for special packs. For small orders below 100.00 € we reserve the right to agree upon a handling surcharge of 10.00 € and for export orders below 150.00 € a handling surcharge of 15.00 €.

2.4 We reserve the right to make technical modifications to our products, provided this does not involve any deterioration in the technical standard. All measurements and weights are to be regarded as approximate.

3. Call-off orders

Unless agreed otherwise in writing between the customer and us, call-off orders shall apply for a period no longer than one year. The order for the whole delivery must reach us during this period or we are entitled to make deliveries without calls for the goods.

4. Prices – terms of payment

4.1 Except as otherwise shown in the order confirmation, our prices are ex works including loading at the works, but exclusive of packaging, insurance and value added tax.

4.2 The deduction of a discount shall require a special written agreement.

4.3 Our invoices shall be due and payable without deduction on delivery in accordance with the separately agreed terms of payment, otherwise immediately from the date of the invoice. Should the customer default in payment, we shall be entitled – to assert all claims arising from this or other transactions against the customer immediately, even if individual instalments are not yet due, – to withhold deliveries or other performances arising from this or other transactions until all the claims due to us as a result of this or other orders have been met in full by the buyer, – to demand appropriate security, – to charge interest for default at the rate of 5 % above the base rate per annum – in the case of customers, who are legal entities under public law, special fund under public law or businessmen, who are acting in the exercise of their trade or profession on conclusion of the contract, 8% above the base rate. If we are in a position however to prove a higher loss caused by default, we shall be entitled to assert this.

The customer may only offset counterclaims, if these counterclaims have been declared final and absolute, are undisputed or are recognised by us. The buyer shall also not have any right of retention on account of disputed counterclaims, which have not been declared final and absolute.

5. Delivery

5.1 Delivery times, which may be agreed as being binding or non-binding, shall commence with the sending of the order confirmation, but not before the production of all the information and documents to be furnished by the customer, the clarification of all technical matters and not before the receipt of any down payment agreed upon.

5.2 Delivery times shall be deemed to be observed, if on expiry the goods to be delivered have left our works or their readiness for dispatch has been notified.

5.3 Delivery and performance periods shall be reasonably extended in the case of action in connection with labour disputes, in particular strike and lock-out, and also in the event of unforeseen hindrances for which we or our vicarious agents cannot be held responsible, if these hindrances result in delays in performance by us or our suppliers or sub-contractors.

5.4 In the event of delay in delivery for reasons, for which we can be held responsible, the customer shall be entitled to demand lump-sum compensation in the amount of 3% of the value of the goods to be delivered for each completed week of delay, but a maximum of 15% of the value of the goods to be delivered. We reserve the right to prove to the customer that a considerably smaller loss or no loss at all has occurred as a result of the delay in delivery. The buyer has the right to produce evidence of a higher loss.

5.5 Should the customer withdraw from the contract if the statutory requirements are met as a result of the delay in delivery and/or demand damages in lieu of performance or should performance by chance become impossible for us during the delay in delivery, the customer's claim in the case of minor negligence shall be limited to a maximum of 50% of the agreed purchase price. We reserve the right to produce evidence of a smaller loss, the customer has the right to produce evidence of a higher loss.

If the customer is a legal entity under public law, a special fund under public law or a businessman, who is acting in the exercise of his trade or profession on conclusion of the contract, claims for damages for minor negligence shall be excluded.

5.6 If the customer delays in accepting the performance, notwithstanding further statutory claims we shall be entitled to charge 0.5% of the invoice value each month for the costs of storage, unless the buyer produces evidence of a smaller loss.

6. Part deliveries

We shall be entitled to make part deliveries and also to deliver ahead of the agreed date in accordance with prior information. In the case of the delivery of special parts we reserve the right to make a 10% overdelivery or underdelivery for the performance of the contract.

7. Warranty

7.1 The subject matter of the contract is solely the product supplied by us with the properties and characteristics as well as the intended purpose in accordance with the product specification enclosed with the products or provided in advance. Any other, further properties and/or characteristics or an intended purpose beyond this shall only be deemed to be agreed, if they are confirmed expressly by us in writing.

7.2 If the customer is a legal entity under public law, a special fund under public law or a businessman, who is acting in the exercise of his trade or profession on conclusion of the contract, the following special provisions shall apply:

- The warranty period for the products supplied by us is one year from the time of delivery of the goods to the customer.
- Any defects discovered are to be reported to us in writing without undue delay. This shall also apply to defects, which are discovered after an attempt at rectification.
- Defects, which are not to be regarded as hidden defects, are to be notified to us within a period of 5 days after handover. Hidden defects are to be notified within 5 days of discovery of the defect. If notification has not been sent to us by the expiry of this period, the goods shall be deemed to be approved free from defects.

7.3 Claims of the customer on the grounds of physical injury as well as fraudulent concealment of a defect, wilful or grossly negligent damage and assuming an obligation as regards quality or giving a quality guarantee shall remain unaffected in any case. If we negligently breach a major obligation or a material contractual obligation, our liability for damages shall be limited to the foreseeable loss typical for this type of contract.

7.4 If the customer has failed to meet his payment obligations or meet them in due time, our warranty obligations shall be suspended until such time.

7.5 If products are made according to design documents received from customers, we shall only be liable for production in the correct manner. Should a claim be made against us by third parties for such products for reasons, which do not lie within our production area, our customer has to indemnify us against such claims.

8. Liability

8.1 We shall only be liable in the case of intent or gross negligence in all cases of infringement of contractual or pre-contractual obligations as well as statutory breaches of duty.

8.2 We shall only be liable for losses caused through minor negligence by us or our vicarious agents on infringement of material contractual obligations and this shall be limited to the foreseeable typical loss on conclusion of the contract. This limitation of liability shall not apply in the case of injury to life, limb or health, in the event of fraudulent concealment of a defect, giving a guarantee or assuming a procurement risk and pursuant to the Product Liability Act.

8.3 The personal liability of our legal representatives, who are not executive bodies, vicarious agents and members of staff for losses caused by them through minor negligence shall be excluded.

9. Retention of title

9.1 We shall retain title to the object purchased until the settlement of the claims due to us under the contract.

9.2 If the customer is a legal entity under public law, a special fund under public law or a businessman, who is acting in the exercise of his trade or profession, the retention of title shall remain for all our claims against the customer arising from the current business relationship or the business relationship established by the contract until the settlement of claims due in connection with the purchase.

At the request of the customer we shall be obliged to waive the retention of title, if the customer has incontestably met all the claims connected with the object purchased and adequate security exists for the other claims resulting from the current business relationship. We undertake to release the securities to which we are entitled at the request of the buyer, when the value of our securities exceeds the claims to be secured by more than 20%.

9.3 Should the customer be in default of payment, we may withdraw from the contract. Taking back the object of purchase by us shall not constitute rescission of the contract, unless this was expressly stated by us in writing.

9.4 The customer has to notify us in writing without undue delay in the event of attachments or other encroachments by third parties, in order to enable us to bring an action pursuant to Art. 771 of the German Code of Civil Procedure (ZPO). If the third party is not in the position to refund to us the court and out-of-court costs of an action pursuant to Art. 771 of the German Code of Civil Procedure, the customer shall be liable for the loss incurred by us.

9.5 The processing or transformation of the goods by the customer will always be carried out for us. If the goods supplied by us are combined or mixed with other movable property, we shall acquire co-ownership of the new item in proportion to the invoice value of our property to the value of the other items. Should our title expire through combination with land or a building, we shall be entitled to all claims arising therefrom for our customer.

The same shall apply, should our customer resell to third parties goods which have been delivered or combined. Our customer already at this point in time assigns to us all the claims due to him against his purchasers arising from transfer and combination and shall pay us a partial amount, which corresponds to our outstanding claim.

10. Applicable law

German law shall apply solely to all legal relationships between us and our customers. Application of the United Nations Convention on the International Sale of Goods shall be excluded.

11. Place of jurisdiction

The place of jurisdiction for all agreements with full merchants is our registered office. We shall be entitled however to bring an action against our customer in his general place of jurisdiction or in the place, where we have rendered our performances.