

General Terms and Conditions of Sale

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§ 1 General Scope

1. Our Terms and Conditions of Sale apply exclusively; we do not accept Purchaser's terms and conditions that are contrary to, or deviate from, our Terms and Conditions of Sale unless we have expressly agreed in writing to their validity. Our Terms and Conditions of Sale shall also apply if we make an unconditional delivery when we are aware of Purchaser's terms and conditions that are contrary to, or deviate from, our Terms and Conditions of Sale. Insofar as our Terms and Conditions here specified do not contradict them, the International Commercial Terms (Incoterms) apply supplementary.
2. All agreements between Purchaser and us regarding the fulfilment of this Agreement are included in writing in this Agreement or, as applicable, in supplemental documents. If individual agreements that may completely or partially supplement these General Terms and Conditions exist, these individual agreements supersede these General Terms and Conditions only in regard to the framework of the individual settlement. For all else, these general Terms and Conditions of Sales shall apply.
3. Our Terms and Conditions of Sales shall be valid only vis-à-vis entrepreneurs in the sense of section 310, para. 1 German Civil Code BGB [Bürgerliches Gesetzbuch – „BGB“], for all future commercial transactions and contracts with Purchaser, even without express reference thereto.
4. We reserve the right to correct any unintentional errors in our sales literature, price lists, quotation documents, or any other documents without being held liable for damages resulting from these errors.

§ 2 Conclusion of Agreement

1. Orders submitted by a Purchaser shall only be considered as accepted by us when they have been accepted by us or our representative in writing within two weeks after they have been submitted.
2. Attached documents, such as illustrations, brochures, drawings, and measurement, weight and performance specifications shall apply only as approximately authoritative and are subject to technically-required change, unless they are explicitly identified as binding.
3. We retain the ownership and copyright of illustrations, drawings calculations and other documents. This also applies to those written documents that are designated as „confidential“. The Purchaser must receive our express written permission before passing these documents on to third parties. The obligation of non-disclosure shall also apply after the fulfilment or failure of this Agreement; it ends if and insofar as the production knowledge contained in the illustrations, drawings, calculations and other documents that were provided has entered the public domain.
4. Our illustrations, drawings, calculations and other documents that were provided to Purchaser must be returned to us immediately upon our request, at the latest, however, upon fulfilment of the delivery and without request. If we do not accept Purchaser's quotation within the time limit specified in section 2 item 1, these documents must also be returned to us without delay.
5. Our order confirmation number must always be included in all written correspondence.

§ 3 Prices Terms and Conditions of Payment

1. Unless indicated otherwise in our order confirmation, our prices apply „ex works“, plus the costs of packing, carriage, freight and other ancillary services. These shall be specified separately in the invoice.
2. We reserve the right to duly change our prices if cost increases or reductions occur after the signing of the Agreement, particularly in regard to wage agreements and changes in the prices of materials. We shall document these for Purchaser upon request.
3. Statutory value added tax is not included in our prices; it is listed on the invoice in its statutory amount on the day of the preparation of the invoice. The statutory value added tax at the time of delivery shall apply.

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4. Discounts may be applied only upon special written agreement.
5. Unless otherwise agreed upon, payments of 1/3 of the contract amount each are due at the receipt of the order confirmation, upon notification that the order is ready for shipment, and 30 days after the date of invoicing. The invoice shall be issued when the order is ready for shipment.
6. Payment of the net purchase price (without discount) is due within 30 days after the date of invoicing. If the purchaser does not fulfil the purchaser's obligation of payment upon the day payment is due, we shall be entitled to invoice for interest at the level of the interest rate charged at the time of delivery by commercial banks on open current account advances, however at least 4% above the base lending rate. In case of default, we reserve the right to assert further claims for damages beyond the above-listed interest charges.
7. Bills of exchange and cheques are accepted only as payments on account and only after prior written agreement. Bills of exchange are not considered payment in cash and do not entitle discounts to be applied. Discount and bill of exchange charges are charged to Purchaser. Send payments made by cheque and bills of exchange only to our company at Abel-Twiete 1, 21514 Büchen, Germany.
8. The purchaser shall only be entitled to set-off claims if the purchaser's counter claims are undisputed, declared legally binding, or are recognised by us. In addition, the purchaser is authorised to carry out the purchaser's right of retention only insofar as the purchaser's counter claim is based upon the same contractual relationship.

§ 4 Delivery

1. Deadlines for delivery and services, which may be agreed upon as being binding or non-binding, are to be specified in writing. The beginning of the delivery period presupposes that all technical questions have been clarified.
2. Our adherence to our obligation of delivery presupposes timely and proper fulfilment of the purchaser's obligations. All required formalities must be completed, and the purchaser must have made the agreed-upon payment on account. The deadlines for delivery and services are adhered to when notification that the order is ready for shipment is made by the deadlines given. The objection of non-performance of Agreement remains reserved.
3. In the event that the purchaser is in default of acceptance or culpably breaches other duties to co-operate, we shall be entitled to request reimbursement of the damage incurred by us, including any extra expenses. Further claims are reserved.
4. If the prerequisites of section 4 item 3 are present, risk of accidental destruction or accidental deterioration of the contractual item passes to the purchaser at the time that the purchaser enters into default of acceptance or debtor's default.
5. If a non-binding delivery deadline has been exceeded by six weeks, the purchaser may request that we make delivery within an appropriate grace period. If a delivery deadline that was expressly agreed is not met, the purchaser shall have the right to immediately establish an appropriate period of grace. If the subject of the Agreement is not delivered before the period of grace has elapsed, the purchaser may withdraw from the Agreement by written explanation.
6. We shall be liable pursuant to statutory provisions as far as the underlying Sales Agreement is a business transaction for delivery by a fixed date. We shall also be liable pursuant to statutory provisions insofar as the purchaser is entitled to assert that the purchaser's interest in further fulfilment of the agreement has ceased as a result of delays in delivery for which we are responsible.
7. Deadlines for delivery and services shall be extended by the duration of a hindrance due to force majeure, industrial disputes, disruptions in operations through no fault of our own, or other unavoidable events that make delivery by us, or our suppliers difficult or impossible. If the hindrance lasts longer than three months, we shall be entitled to withdraw from the agreement in part or in full with regard to the por-

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tion of the agreement that has not been fulfilled. In such an event, the purchaser shall be entitled to withdraw from the agreement as regards the section of the agreement, which has not been fulfilled following the setting of an appropriate period of grace.

Claims for compensation made against us and against our suppliers based on inability to perform, errors upon completion of Agreement, culpability upon conclusion of agreement or tort are excluded except in cases of deliberate or gross negligence.

8. Further, we shall be liable pursuant to statutory provisions insofar as the delay in delivery is due to the deliberate or grossly negligent breach of contract by our representative; a default of our representative or vicarious agent is attributable to us. If the delay in delivery is not due to deliberate or grossly negligent breach of contract by our representative; our liability for damages is limited to the foreseeable, naturally arising damage.
9. We shall also be liable pursuant to statutory provisions insofar as the delay in delivery caused by us is due to the negligent default of a material contractual obligation; but in this case, our liability for damages shall be limited to foreseeable, naturally arising damage.
10. Further legal claims and rights of the purchaser remain reserved.

§ 5 Transfer of Risk – Packaging Costs

1. Unless stated otherwise in the order confirmation, delivery „ex works“ has been agreed.
2. We shall not take back transport packaging and all other packing material pursuant to the German packing ordinance (Verpackungsverordnung). The purchaser shall be obligated to dispose of packaging materials at the purchaser's own expense.
3. If the purchaser so desires, we shall cover delivery with transport insurance. The purchaser shall bear the costs incurred.
4. If delivery is not completed due to reasons caused by the purchaser, risk is transferred to the purchaser when the order is ready for shipment. In this case, goods that are ready for shipment are placed in storage at the purchaser's expense and risk. The date that the invoice is due for payment remains unaffected thereby. We shall not be liable for injuries to persons or damage to property that are caused by our vehicles or drivers in connection with delivery unless this involves deliberate or grossly negligent damage.

§ 6 Liability for Defects

1. The purchaser's rights in case of defects require that the same has properly met its obligations of examination and complaint pursuant to § 377 of the German Commercial Code [Handelsgesetzbuch - „HGB“].
2. Delivery is deemed free of defects 14 days after the arrival or the goods at the destination. We shall repair or replace, if necessary, those parts that prove to be defective within six months after commissioning (within three months for multiple-shift operation), but at the latest within twelve months after the transfer of risk, at a location of our choice, either at our facilities or those of the purchaser, if the defect is proven to be caused by defective material or defective workmanship. In case of repair orders, the warranty listed above only applies to those parts repaired by us. replaced parts become our property.
3. We shall not assume any liability that the delivery item is suitable for a particular use unless we have provided relevant guarantees in writing.
4. We assume liability under the following conditions:
 - We assume no liability for defects of delivery items that are due to a description of the contractual item or specification provided by the purchaser;
 - We do not assume any liability for defectiveness of the delivery item if payment of the purchase price has not been made by the date it is due;

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- Our liability does not extend to parts, materials, or other items of equipment which were manufactured by the purchaser or the purchaser's contracted third party unless the manufacturer of these parts assumes liability for us.

Our liability for defects is particularly excluded due to improper use or operation, incorrect assembly, installation or commissioning by the purchaser or a third party, wear, use of unsuited operating materials or non-approved (agreed upon) means of conveyance, changes or repairs made without our authorisation, or if the purchaser does not allow us sufficient time and opportunity to make repairs.

5. The same warranty as is made for the delivery item is made for replacement parts and repairs, but this does not exceed the warranty period of the contractual item itself.
6. If subsequent fulfilment is impossible, not successful, refused by us, the purchaser, at the purchaser's choice, shall be entitled to request withdrawal or price reduction.
7. We shall be liable pursuant to statutory provisions to the degree that the purchaser asserts claims for compensation that are due to the deliberate or gross negligence of our representative or vicarious agent. Insofar as we are accused of no intentional breach of contract, our liability for damages shall be limited to foreseeable, naturally arising damage.
8. We shall be liable pursuant to statutory provisions if we negligently default on a material contractual obligation; in such an event, however, our liability for damages shall be limited to foreseeable, naturally arising damage.
9. Liability in the event of negligent harm caused to life, limb and health shall remain unaffected; this also applies to statutory liability laid down in the German Product Liability Act [Produkthaftungsgesetz].
10. Insofar as has not been agreed otherwise above, liability is excluded.
11. The period of limitation for defect claims shall be 12 months, calculated from the time of transfer of risk.

§ 7 Joint and Several Liability

1. Liability for compensation for damages which goes beyond that envisaged under section 6 is excluded, regardless of the nature of the claim being asserted. This shall apply in particular to claims for compensation for damages arising from negligence when concluding the agreement, or on account of other breach of duty, or of unlawful claims for compensation for damage to property as defined in section 823 of the German Civil Code [Bürgerliches Gesetzbuch – „BGB“].
2. If liability on our part for compensation for damages is excluded or limited, then such exclusion or limitation shall also apply with respect to the personal liability for compensation for damages of our employees, workers, representatives and vicarious agents.

§ 8 Reservation of Property Rights

1. We reserve all rights of ownership of the purchase item until receipt of all payments arising from the business relationship with the customer. Insofar as we and the purchaser agree to payment of the purchase price based on the cheque/bill of exchange system, the reservation shall also apply to the discharge of the bill of exchange accepted by us from the purchaser and does not expire by the credit note of the check received. In the event of the purchaser's conduct contrary to contract, particularly in case of delay in payment, we shall be entitled to repossess the purchase item after setting an appropriate deadline. Our repossession of the purchase item constitutes withdrawal from the agreement. After repossessing the purchase item, we shall be authorised to utilise it; the proceeds of utilisation are to be taken into account for the obligations of the purchaser – minus appropriate utilisation costs.
2. The purchaser shall be obligated to treat the purchase item with due care. The purchaser is particularly obliged to insure the item at its original value and at the purchaser's own expense against fire and water damage as well as losses caused by theft. If maintenance work and inspections are required, the purchaser must carry these out in a timely manner at the purchaser's own expense.

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3. The purchaser must inform us immediately in writing in the event of seizure or other interventions by third parties, so that we can institute proceedings pursuant to section 771 of the German Code of Civil Procedure [Zivilprozeßordnung – „ZPO“]. If the third party is not able to reimburse the court and out of court costs pursuant to section 771 ZPO, the purchaser shall be liable for the resulting loss. If the purchaser does not satisfy the obligation to inform us, the purchaser shall be liable for the resulting damages.
4. We have a right of retention and a contractual lien on the items that become our property based on the contract against our amount receivable.
5. The purchaser shall be entitled to resell the purchase item in accordance with proper business practices. This authorisation shall cease in cases of section 9, figure 3. However, the purchaser herewith assigns to us all claims in the amount of the final sum of the invoice (including value-added tax) arising from resale to his buyers or third parties, independent of whether the purchase item has been resold without processing or after processing. The purchaser remains authorised to collect this claim even after the assignment. Our authorisation to collect this claim ourselves is not affected by this. However, we commit ourselves not to collect the claim as long as the purchaser complies with the Purchaser's obligations to pay from collected proceeds, does not enter into default of payment and, particularly, does not make application to enter into a bankruptcy, composition or insolvency procedure or stop making payments. However, should this be the case, we can demand that the purchaser disclose the assigned claims and their debtors, provide all details about collection, hands over the necessary documents and informs the debtor (third party) of the assignment.
6. The processing or alteration of the purchase item by the customer is always carried out for us. If the purchase item is processed together with other items that do not belong to us, we shall acquire joint ownership of the new item in the proportion of the value of the purchase item (final sum of the invoice, including value added tax) to the value of the other processed items at the time of processing. Additionally, the same applies to the item arising from processing as to the contractual item supplied under reservation.
7. If the purchase item is inseparably compounded with other items that do not belong to us, we shall acquire joint ownership of the new item in the proportion of the value of the purchase item (final sum of the invoice, including value added tax) to the value of the other compounded items at the time of compounding. If compounding takes place in a manner the leads the Purchaser's item to be considered the chief item, it is agreed that the purchaser assigns proportional joint ownership to us. The purchaser holds the resulting wholly owned or jointly owned property for us.
8. The purchaser shall also assign to us the receivables for securing our receivables against the purchaser that accrue vis-à-vis a third party by connecting the goods with real property.
9. We obligate ourselves to release the securities we are entitled to upon request of the purchaser insofar as the value that can be realised from our securities exceeds the receivables to be secured by more than 10%. The selection of the securities to be released shall be our responsibility.

§ 9 Cancellation of Agreement, Inability to Pay

1. If we expressly agree to the cancellation of an order issued as binding, the purchaser shall pay to us 10% of the total value of the order - even if we do not expressly repeat this requirement at the time of the cancellation. The claim for further damages is reserved.
2. If the purchaser enters into default, we may demand the return of the purchase item delivered by us as security without withdrawing from the agreement. If we withdraw from the agreement, this withdrawal must be declared in writing. In case of withdrawal, we shall be entitled to 10% of the total value of the order as compensation for the costs of delivery and return, insofar as the purchaser does not prove that we have accrued lesser or no loss or damage.
3. If, after the conclusion of the agreement, a significant deterioration of the purchaser's financial situation that may endanger our claim for payment occurs, the purchaser enters into default of payment with us regarding other obligations, a bill of exchange or cheque is not discharged when it is due, the purchaser, in general, stops making payments, or a procedure for bankruptcy, composition or insolvency regarding

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the purchaser's assets is filed, we shall be entitled to make, subject to our decision, the continuation of an on-going long-term delivery or a still-intended delivery contingent upon an advance payment or security, or to withdraw from the agreement insofar as it has not yet been fulfilled for us.

4. In the cases listed in section 9, figure 3, all other claims from us against the purchaser shall become due immediately, and any agreements for the deferral of payments become invalid.
5. If the purchaser does not adhere to the agreed deadline for acceptance or if the purchaser refuses to accept the item upon delivery, we shall be entitled, without setting a grace period, to withdraw from the agreement or demand compensation for breach of contract.

§ 10 Data Protection

The purchaser declares the Purchaser's revocable agreement that personal data that has been provided is handled and processed, in relation to the order, in compliance with statutory provisions.

§ 11 Jurisdiction Place of Performance Applicable Law

1. If the purchaser is a business, the agreed place of jurisdiction is our place of business. However, we shall be entitled to assert our claims at the purchaser's general place of jurisdiction.
2. Unless stated otherwise in our order confirmation, our place of business is the place of performance.
3. Changes and amendments to these conditions must be made in writing.
4. In addition to the agreement conditions, only the authoritative law of the Federal Republic of Germany applies for the legal relations of domestic parties. The validity of the UN Sales of Goods Act is excluded.

§ 12 Severability Clause

If individual provisions of these General Terms and Conditions are or become invalid or contain a regulatory gap, the remaining provisions shall remain unaffected thereby.