

GENERAL TERMS AND CONDITIONS OF SALES

1. Application

1.1 Our Terms and Conditions apply exclusively; conflicting or deviating terms and conditions of the buyer are not accepted, unless we have explicitly agreed to their validity.

1.2 Our conditions of doing business apply only to companies as defined by § 310, section 1 BGB = BÜRGERLICHES GESETZBUCH - GERMAN CIVIL CODE. They also apply to foreign business transactions.

2. Conclusion of the contract

2.1 Our offers are subject to change without notice and non-binding unless explicitly defined as a binding offer.

2.2 The quotations contained in our catalogues, brochures, and other sales documents regarding colours, weight and material are to be regarded as approximate only, unless they are specifically designated as binding.

2.3 The order of the goods by the buyer is valid as a binding offer of contract. Unless otherwise stated in the order, we shall be entitled to accept this offer of contract within 14 days of receipt.

2.4 Acceptance shall either be declared in writing (e.g. through the order confirmation) or through the supply of the goods to the buyer. In this case, the invoice applies as the order confirmation.

3. Prices

3.1 The relevant valid price list is applicable for all prices. Unless otherwise agreed, the prices shall be deemed to be in euros plus the legally valid value added tax. If the agreed delivery period exceeds three months, we shall be entitled to increase the prices in line with any occurred cost increases due to collective wage and salary agreements or increases in material prices.

3.2 Unless otherwise specified in our order confirmation, prices and delivery quoted are "ex works". Our prices are understood to be excluding packing; packing costs are charged additionally at cost price.

4. Delivery

4.1 We only supply in our packing units. Differing amounts are increased to packaging and shipping units.

4.2 We reserve the right to minor standard deviations in model and dimensions as well as in industry-standard design modifications.

4.3 Delivery will be made ex works.

4.4 Proposed deadlines and dates for the supply of goods and services announced shall always be considered as approximate, unless a firm deadline or date has been expressly approved or agreed to.

4.5 We are not liable for non-compliance of delivery or for delivery delays, as far as these are caused by force majeure or other causes that were not foreseeable when the contract was concluded (e.g. disruption of operations, difficulties with the procurement of materials and energy supply), and are not caused due to our doing. As far as such incidents make delivery or service for us considerably difficult or impossible and the obstruction is not only of temporary duration, we are eligible to withdraw from the contract. The buyer will only be entitled to withdraw from the contract in case of a delayed delivery, if he first fixed an additional period of time of reasonable length.

4.6 Shipment shall be at the risk and expense of the buyer, in case of any possible damages during transport only the buyer is entitled to complaints.

4.7 The registration of the codification (EAN) of our products by the purchaser is entirely at his own risk.

5. Payment

5.1 Invoices have to be paid and payment has to be received latest within 10 calendar days after date of invoice without any deductions. Possible cash discount agreements shall apply only if the buyer is not in arrears on any payment for earlier deliveries. Default interest will be invoiced according to the statutory regulations (§§ 288, 247 BGB = BÜRGERLICHES GESETZBUCH - GERMAN CIVIL CODE). Non-compliance with the credit term shall result in all other open, not yet past due, invoices becoming due immediately.

5.2 All expenses in connection with non-cash payment shall be at the buyer's expense, as well as the costs of any recovery procedure.

5.3 Our representatives are not entitled to collect payment.

5.4 All our claims shall be due and payable immediately if the terms of payment are not adhered to (which also applies for part-payment plans in arrears to the extent of two instalments), and also, should facts become known relating to financial difficulties of the buyer. In addition we are authorized to accomplish outstanding deliveries only against prepayment or by way of security, if, after signing the contract, we become aware of circumstances which have the potential to reduce the creditworthiness of the buyer in a considerable way, which place the payment of our outstanding receivables by the buyer from the respective contract (including those from other individual orders for which the same framework contract applies) at risk. If the buyer refuses our request for advance payment or for the provision of securities, we shall be entitled to withdraw from the contract, whereby invoices of partial deliveries already effected shall become due with immediate effect.

5.5 Set-off by purchaser is permitted only with claims that are undisputed or have been upheld by final decision of a court of competent jurisdiction. The buyer is only entitled to rights of retention if they are based on the same contractual relationship. Should any reported deficiencies or defects of the whole, or parts of the goods, be insignificant in comparison with the total price to be paid for the goods, then the right to withhold payment is fundamentally void.

6. Defects

6.1 All apparent and/or identified defects, incorrect quantities or incorrect deliveries must be notified to us in writing at the latest within 7 days. The broader obligations of the trader under paragraphs 377 HGB (Handelsgesetzbuch = Commercial Law) shall remain unaffected.

6.2 If the good delivered is defective, the buyer may, at our option, request for a subsequent delivery as removal of the defect or delivery of another good free of defects. In case of removal of defects we are committed to assume all costs which are necessary for removal of the defect, especially transport, travel, work, and material costs insofar as these are not increased by the fact that the object of purchase or repair has been brought to a location other than the place of performance.

6.3 Goods can only be returned with our approval. Unapproved shipments will be returned at the sender's expense re. will be declined the acceptance.

6.4 If the fulfillment of warranty is seen to have failed, the buyer is entitled to choose between a cancellation of the contract and a reduction of payment. We will be liable for damages purely on the basis of the regulations in number 7.

6.5 The period of limitation is 12 month, beginning with the transfer of risk.

6.6 Unless the previous paragraphs do not provide otherwise, any liability for material defects and defects of title is excluded. The special legal provisions in the case of ultimate delivery of the goods to a consumer (suppliers' recourse according to Sections 478, 479 BGB = BÜRGERLICHES GESETZBUCH - GERMAN CIVIL CODE) shall be unaffected in all cases.

7. Liability for compensations caused by fault

7.1 Insofar as not otherwise derived from these General Terms and Conditions including the following provisions, we shall be liable according to the relevant statutory regulations in case of a breach of contractual and non-contractual duties. We shall be liable for compensation – regardless of any legal basis – in case of intent and culpable negligence. In cases of minor negligence, we are only liable:

a) for damage resulting from death, physical injury or harm to human health;
b) for damage resulting from the breach of an essential contractual obligation (an obligation whose proper fulfilment makes fulfilment of the agreement possible at all and on whose observance the contractual partner regularly relies and may rely); in this case, our liability is restricted to foreseeable and typically occurring damage

7.2 The above restrictions in respect of our liability also apply in favour of our legal representatives and vicarious agents if claims are lodged directly against these.

7.3 The product liability laws remain untouched.

8. Reservation of title

8.1 We reserve the right to the property of the sold goods until the full payment of all of our current and future claims from the purchase contract and a current business relationship (secured claims). The goods subject to reservation of title may neither be pledged to third parties, nor assigned as collateral before the full payment of the secured claims. The buyer must inform us in writing immediately if and when third parties exercise rights over the goods.

8.2 The buyer is entitled to sell the goods under reservation of title within accepted business practices. The ordering party already now assigns the accounts receivable arising from the re-sale of goods with respect to third parties to us as security. We accept this assignment. Beside ourselves, the buyer remains authorized to the collection of the claims. We agree not to recover debts ourselves as long as the buyer complies with his payment obligations to us and there is no other deficiency in the buyer's performance capacity and solvency.

8.3 If the realizable value of the securities granted exceeds our total claims by more than 25%, we shall release at the buyer's request securities of our choice.

9. Data protection

Herewith the buyer is informed that all personal data obtained under the business relationship shall be processed within the scope of the German Data Protection Act.

10. Place of Execution, Court of Jurisdiction and Applicable Law

10.1 Hersbruck shall be the place of performance for all deliveries if the buyer is a trader. Hersbruck/Nuremberg shall be the place of performance. The place of jurisdiction is Hersbruck if the buyer is a trader; however, we shall be entitled to sue the buyer at his local court as well.

10.2 Any contract shall be governed solely by the law of the Federal Republic of Germany; application of UN Purchase Law is excluded.

10.3 If individual regulations of the contract with the buyer including these general trading conditions should be totally or partly ineffective or become ineffective, or should there be a loophole in the contract then the validity of the remaining regulations is not thereby affected. The invalid, unenforceable or missing provision shall be replaced by an appropriate provision which most closely approximates to the economic purpose of this invalid, unenforceable or missing provision. Should any contractual gap become evident, it will be closed by mutual agreement.

11. Confidentiality

The contractual party is obliged to keep all information given to him re. to the person, entrusted to fulfil the contract in connection with the provision of services strictly confidential. This applies also for information that has been communicated by the contractual partner in the course of an oral presentation or a discussion.

All information provided to the contracting partner is only to be used in the framework of the contractually agreed services. The contracting partner will protect this provided information safely from unauthorized access by third parties. Further obligations of the contracting partner in order to secure secrecy and confidentiality, notably in relation with statutory obligations regarding confidentiality rules, remain unaffected. The contractual partner shall be obliged to use only staff that has been committed to maintain the confidentiality and secrecy (for at least the same level). The same applies for sub-contractors or their staff used in an authorized way by the contractual partner. The publication of the contents or the passing on third parties requires the prior expressly written consent of the contractual partner.

In case of disputes the only legally binding version of the present General Terms and Conditions is the original text in German language.