

General Terms and Conditions of Sale and Delivery

§ 1

Conclusion of Contracts

- 1.1 These General Terms and Conditions apply to all offers, contractual relationships and deliveries between us and the “Buyer”, insofar as the latter is an entrepreneur/undertaking, a legal entity under public law or a special fund under public law (*öffentlich-rechtliches Sondervermögen*).
- 1.2 All offers, agreements, deliveries and performances are based exclusively on the following General Terms and Conditions. Deviating conditions of the Buyer, which are not expressly acknowledged in writing, are not binding, even if we perform a contract without expressly contradicting them.

§ 2

Order Placement and Property Rights

- 2.1 Our offers are subject to change and non-binding. The Buyer is bound to an order. Conditions and agreements – in particular if they amend these General Terms and Conditions – shall only become binding for us upon our written confirmation.
- 2.2 Our written notices shall be deemed to have been received by the Buyer after the usual transit time of mail if they have been sent to the postal address, fax number or e-mail address last published to us and if we can deliver prove this. Excluded from the presumption of receipt are declarations of material importance, in particular declarations of termination, revocations or the granting of grace periods.
- 2.3 As far as we can make available to the Buyer a system of „Electronic Data Interchange“ (EDI), the Buyer will use this system to carry out its orders. Details related to this system will be agreed upon in a separate agreement.
- 2.4 We will store the personal data arising in the context of the business relationship with the Buyer to the extent necessary for the execution of the contracts.
- 2.5 We retain title or copyright for all offers and estimates of costs submitted by us as well as for drawings, images, calculations, brochures, catalogues, samples, tools and other documents and utilities, which we make available to the Buyer. Without our explicit consent, the Buyer may not make these objects, or the content of them, accessible to third parties or make them known to third parties or have them used or reproduced, either by itself or by third parties. On our request Buyer must return these objects to us in their entirety and, where applicable, destroy any copies made by it if they are no longer needed by it in the proper course of business or if negotiations do not result in the conclusion of a contract.
- 2.6 In the case of the provision of constructive services according to drawings, illustrations, calculations, drafts, plans, samples or other technical data, requirements or information of the Buyer, our offers refer exclusively to the

production-related execution of the work desired by the Buyer. In particular, we do not owe any examination as to whether the manufacturing or the designed products on this basis infringe any property rights of third parties. This examination is the sole responsibility of the Buyer. In addition, the provisions of § 9.2 shall apply.

§ 3

Terms of Payment

- 3.1 All invoices are payable upon the date of issuance, for which the receipt of the invoice by the recipient is decisive. From 30 days after the due date, we charge default interest in the amount of 8 percentage points above the respective base interest rate of the European Central Bank.
- 3.2 Invoices can also be issued in the form of electronic invoices. If this is the case, we will send them in the form of a pdf- or tif-file to the e-mail address provided by the Buyer. In these cases, the Buyer expressly agrees to this procedure.
- 3.3 Discountable bills of exchange, payment instructions and cheques shall only be accepted by special agreement and on account of payment, with the calculation of all collection and any discount charges. Credit notes for bills of exchange and cheques are subject to receipt and with value date of the day on which we can dispose of the equivalent value.
- 3.4 The Buyer's right to determine which claims are fulfilled by payments by the Buyer is waived in favor of the statutory repayment regulation of § 366 para. 2 of the German Civil Code (BGB).
- 3.5 If the Buyer is in arrears with a partial payment, we can make the entire remaining claim due immediately. If the Buyer is in default of payment, we may declare withdrawal from the contract and demand damages in lieu of performance (*Schadenersatz statt der Leistung*) after the fruitless expiry of a reasonably set deadline. In the event of non-performance of the contract by the Buyer, we are entitled to demand a lump sum of 25% of the purchase price as damages from the Buyer, unless this lump sum exceeds the damage to be expected according to the normal course of events. The Buyer is permitted to prove that damage has not occurred or has only occurred in a significantly lower amount.
- 3.6 The Buyer can only offset against our claims or assert a right of retention effectively if its counterclaim has been legally established or is undisputed or if the right of retention results from the contractual relationship on which these conditions are based. The Buyer may not assign its claims - subject to the provision of § 354a of the German Commercial Code (HGB) - to third parties.
- 3.7 If, after conclusion of the contract, it becomes apparent to us that our claim to the consideration is endangered by the Buyer's inability to pay, we may refuse our performance, unless the Buyer provides suitable security at our request within a reasonable period of time.
- 3.8 If the Buyer does not comply with our justified request or does not comply with it in time, we may withdraw from the contract in accordance with the statutory provisions and demand damages instead of performance.

§ 4

Retention of Title

- 4.1 The retention of title agreed below serves to secure all current and future claims on our part against the Buyer under the supply relationship between the contracting parties (including balance claims arising from an open account relationship limited to this supply relationship).
- 4.2 The goods delivered by us to the Buyer remain our property until full payment of all secured claims. These goods and those replacing them under this clause as subject to the retention of title shall hereinafter be referred to as “Goods subject to Retention of Title”.
- 4.3 The Buyer shall store the Goods subject to Retention of Title for us free of charge.
- 4.4 The Buyer is entitled to process and sell the Goods subject to Retention of Title in the ordinary course of business until realization (§ 4.9). Pledging and assignment as security shall not be permitted.
- 4.5 If the Goods subject to Retention of Title are processed by the Buyer, it is agreed that the processing is carried out in our name and for our account as the manufacturer and that we directly own or – if the processing is carried out from materials of several owners or the value of the processed item is higher than the value of the Goods subject to Retention of Title – acquire co-ownership (*Bruchteilseigentum*) of the newly created item in the ratio of the value of the Goods subject to Retention of Title to the value of the newly created item. In the event that no such acquisition of ownership should occur with us, the Buyer already transfers its future ownership or – in the above-mentioned relationship – co-ownership of the newly created item to us as security. If the Goods subject to Retention of Title are combined with other items to form a uniform item or are inseparably mixed and one of the other items is to be regarded as the main item, we shall, insofar as the main item belongs to us, transfer to the Buyer proportionate co-ownership of the uniform item in the ratio mentioned in sentence 1 above.
- 4.6 In the event of the resale of the Goods subject to Retention of Title, the Buyer hereby assigns to us the resulting claim against the purchaser by way of security – in the case of co-ownership on our part of the Goods subject to Retention of Title pro rata in accordance with the co-ownership share. The same applies to other claims that take the place of the Goods subject to Retention of Title or otherwise arise with regard to the Goods subject to Retention of Title, such as insurance claims or claims from tort in the event of loss or destruction. We revocably authorize the Buyer to collect the claims assigned to the seller in its own name for our account. We may only revoke this direct debit authorization in the event of realization.
- 4.7 If third parties access the Goods subject to Retention of Title, in particular by seizure, the Buyer will immediately inform them of our ownership and inform us about this in order to enable us to enforce our property rights. Where the third party is unable to reimburse us for any judicial or extra-judicial costs incurred in this connection, the Buyer shall be held liable vis-à-vis us.

- 4.8 We undertake to release the securities to which we are entitled at the request of the Buyer to the extent that the realizable value of the securities exceeds the claims to be secured by more than 10% or the nominal amount by more than 50%; the selection of the securities to be released is incumbent on us.
- 4.9 Where we withdraw from the contract due to breach of contract on the part of the Buyer (*Verwertungsfall*), including but not limited to default, we shall be entitled to demand the return of the Goods subject to Retention of Title.
- 4.10 If the Buyer has provided for a transfer of the delivered goods abroad, the Buyer must inform us immediately in writing and at our request grant a security interest that comes closest to the aforementioned retention of title under the legal system of the destination.

§ 5

Delivery

- 5.1 The agreed delivery dates and periods shall apply. Delivery periods begin with the conclusion of the contract, but not before complete clarification of all execution details. Decisive for the timeliness of the delivery is the time at which the goods are handed over to the carrier or loaded onto one of our vehicles or the time of the readiness for dispatch, insofar as the dispatch or delivery of the goods is delayed by circumstances for which the Buyer is responsible. In the event of subsequent changes to the contract, which are agreed on the initiative of the Buyer and which affect the delivery time, this shall be extended to a reasonable extent.
- 5.2 We shall not be liable for impossibility (*Unmöglichkeit*) of delivery or for delays in delivery insofar as these are caused by force majeure or other events unforeseeable at the time of conclusion of the contract (e.g. operational disruptions of any kind, difficulties in the procurement of materials or energy, transport delays, strikes, lawful lockouts, shortages of labor, energy or raw materials, difficulties in obtaining necessary official permits, official measures, the failure of suppliers to deliver or to deliver properly or on time, riots, armed conflicts or terrorist acts, natural disasters, epidemics and epidemics – including COVID 19 or comparable events – for which we are not responsible. If such events make it considerably more difficult or impossible for us to deliver or perform and the hindrance is not only of temporary duration, we shall be entitled to withdraw from the contract. In the event of hindrances of temporary duration, the delivery or service deadlines shall be extended or postponed by the period of the hindrance plus a reasonable start-up period. If we are unable to meet delivery dates for reasons for which we are not responsible, we shall inform the Buyer accordingly and at the same time notify the Buyer of the expected new delivery date. Such an only temporary postponement of the delivery or service dates shall not entitle the Buyer to withdraw from the contract. In the event of default in acceptance or other culpable breach of cooperation obligations on the part of the Buyer, we shall be entitled to compensation for the resulting damage, including any additional expenses. We reserve the right to assert further claims. In this case, the risk of accidental loss or accidental deterioration of the goods shall pass to the Buyer at the time of default of acceptance or other breach of cooperation obligations.
- 5.3 All reminders and deadlines set by the Buyer must be in writing in order to be effective.

§ 6

Dispatch, Transfer of Risk, Obligation to Inspect and give Notice of Defects

- 6.1 Unless otherwise agreed, shipment is ex works without liability for the cheapest shipping method. The goods are shipped unpacked or against cash invoice and not protected against rust. Goods reported ready for dispatch must be called off immediately, otherwise, or in the event of impossibility or delay in dispatch for which the Buyer is responsible, we are entitled to store the goods at the Buyer's expense at our own discretion and to charge them as delivered ex works.
- 6.2 The risk shall pass to the Buyer upon handover of the goods to the carrier or upon loading onto one of our vehicles. If the shipment is delayed at the request of the Buyer or the collection of the goods by the Buyer, the risk shall pass to the Buyer upon notification of readiness for dispatch or readiness for collection of the goods. In the event of transport damage, the Buyer must immediately arrange for a factual assessment with the responsible authorities and notify us in writing.
- 6.3 Unless otherwise agreed, delivery shall be made in the shipping units shown in the order documents. We are entitled to customary partial deliveries and partial services at any time, unless the partial delivery or partial performance is unreasonable for the Buyer.
- 6.4 With regard to all our deliveries and services, the Buyer assumes an obligation to inspect and give notice of defects in accordance with § 377 of the German Commercial Code (HGB), unless otherwise specified below. Hidden defects that cannot be discovered within the aforementioned period even after careful examination must be reported to us immediately after their occurrence. Any complaints by the Buyer must be made in writing and with a detailed description of the defect. The defective products must be kept ready for inspection by us in the condition in which they are at the time the defect is detected.

§ 7

Pricing

- 7.1 The prices are ex works plus normal packaging and plus the respective statutory value added tax. We are entitled, but not obliged, to take out insurance against loss and damage to the goods during transport at the expense of the Buyer.
- 7.2 In the case of cross-border deliveries, the Buyer must also bear all costs and expenses associated with crossing the border, in particular fees for import and export permits and customs duties, regardless of whether they have been paid for in advance by us.
- 7.3 If prices are not quoted, the prices valid on the day of delivery shall be charged.

§ 8

Warranty

- 8.1 For the rights of the Buyer in the event of material defects and defects of title, the statutory provisions shall apply, unless otherwise specified below. Our products are free of defects if they have the agreed quality, even if this should deviate from objective requirements.
- 8.2 In the case of proven material defects, we provide warranty by subsequent performance in such a way that we provide the Buyer with a new, defect-free product at our discretion (subsequent delivery) or remedy the defect (rectification). In the event of rectification, the Buyer shall, at our request, specify notifications of defects and submit written reports of defects and provide other data suitable for the analysis of the defect. Unless it is a case of a constructive service that we provide on the basis of specifications of the Buyer in accordance with § 2.6 above, we provide warranty by subsequent performance in the case of proven defects of title by providing the Buyer with a legally flawless possibility of using the delivered product or, at its discretion, on a replaced or modified equivalent product.
- 8.3 If the supplementary performance in accordance with the preceding paragraph remains unsuccessful, the Buyer may withdraw from the contract or reduce the remuneration. The prerequisite is the fruitless expiry of a deadline of reasonable length set in writing, unless a deadline is dispensable by law.
- 8.4 We shall pay damages or reimbursement of futile expenses due to a defect within the limits set out in § 10 below (Liability).
- 8.5 In the context of a constructive service that we provide on the basis of the Buyer's specifications in accordance with § 2.6 above, the Buyer assumes the risk of the suitability of the products for the intended purpose.
- 8.6 We do not assume any warranty for components provided by the Buyer. The Buyer is solely responsible for the suitability and quality of such components, unless expressly agreed otherwise.
- 8.7 The limitation period for the claims pursuant to §§ 8.1 to 8.4 is 10 years for all other defects in law in the case of defects of title consisting in a right in rem of a third party on the basis of which the third party can demand the surrender of the product as well as in cases of fraudulent concealment of defects. The limitation period begins with the delivery of the product.
- 8.8 If a third party asserts claims that prevent the exercise of the Buyer's entitlement to use, the Buyer must inform us immediately in writing and comprehensively. He already undertakes to involve us in the event of a judicial or extrajudicial dispute with the third party.
- 8.9 Statements on our part about the quality of the goods shall not be deemed to be the assumption of a guarantee for the quality, unless the parties expressly agree to this. In this case, the rights of the Buyer are determined by our guarantee declaration.

§ 9

Industrial Property Rights

- 9.1 Unless there is a case of § 9.2 below, the following applies with regard to industrial property rights and copyrights in connection with the products supplied by us:
- 9.1.1 In accordance with this § 9.1, we shall ensure that the product is free of industrial property rights or copyrights of third parties. Each contracting party shall notify the other contracting party immediately in writing if claims are asserted against it due to the infringement of such rights.
- 9.1.2 In the event that the delivered good infringes the industrial property rights or copyright owned by a third party, we will, at our choice, either modify the delivered good or replace it so that third party rights are no longer infringed and the delivered good is still fulfilling its contractually agreed functions, or obtain the rights to use for the Buyer by way of the conclusion of a license agreement. In case we do not succeed to do so within appropriate period of time, the Buyer is entitled to rescind the contract or to make an appropriate reduction of the purchase price. Any claims for damages of the Buyer are subject to the limitations set out in the liability clause in these General Terms and Conditions.
- 9.1.3 In case of an infringement made by goods of other manufacturers which we deliver, we will, at our choice either assert our claims against the manufacturer and pre-supplier for the Buyer's account or assign such claims to the Buyer. Claims existing within the framework of this § 9.1 can only be asserted against us if a court proceedings regarding the assertion of the aforementioned claims against the manufacturer and pre-supplier has been unsuccessful or, for example, if there is no reasonable chance due to insolvency.
- 9.2 Instead of the above provisions in § 9.1, the following applies with regard to constructive services that we provide on the basis of the Buyer's specifications pursuant to § 2.6 above:
- 9.2.1 If products are manufactured within the scope of constructive services according to drawings, illustrations, calculations, drafts, plans, samples or other technical data, requirements or information of the Buyer, the Buyer assumes the guarantee that any property rights of third parties are not infringed by our production and delivery.
- 9.2.2 The Buyer is also liable for the fact that the documents handed over to us within the meaning of § 9.2.1 may be lawfully used or used by us within the framework of constructive services.
- 9.2.3 If a third party prohibits the use or application of the documents within the meaning of § 9.2.1 or the manufacture and/or delivery of the products designed on this basis on the basis of existing property rights, we are entitled to cease our respective activities immediately. In this case, the Buyer is obliged to reimburse us for the costs incurred and to indemnify us from any claims for damages by third parties due to the infringement of corresponding property rights. Claims for compensation by the Buyer against us in this regard are excluded.

§ 10

Liability

- 10.1 Our liability for damages irrespective of the cause in law, specifically on grounds of impossibility, default, bad or incorrect delivery, breach of contract, violation of obligations during contract negotiations and tortuous acts, where these are based on fault, shall be limited as specified under this § 10.
- 10.2 We shall not be liable
- a) for simple negligence of our executive bodies, legal representatives, employees or any other vicarious agents;
 - b) for gross negligence of non-managerial staff or other vicarious agents,
- unless it relates to the violation of material contractual obligations. Material contractual obligations shall include timely, defect-free deliveries and installation along with the duty to provide advice, to protect and to exercise proper care, in order to enable the Buyer to use the goods delivered as stipulated and to protect life and body of employees of the Buyer or of third parties or the property of the Buyer from considerable damage.
- 10.3 Where we are liable on the merits for payment of damages in accordance with § 10.2, this liability shall be limited to damage which, on conclusion of the contract, we foresaw as a potential consequence of a breach of contract or should have foreseen exercising due care and attention if we had taken into account the circumstances known to us or which we should have known. Indirect damage and consequential damage as a result of defects of the goods delivered shall also be eligible for compensation only where such damage can typically be expected if used as intended.
- 10.4 In the event of liability for simple negligence, our liability for material and personal damage shall be limited per claim to the amount of coverage of our product liability insurance or our general liability insurance, even where a violation of material contractual obligations is involved.
- 10.5 The above exclusions and limitations of liability shall apply to the same extent to our executive bodies, legal representatives, employees and other vicarious agents.
- 10.6 Where we provide technical information or act as a consultant without such information or consulting service being included in the contracted scope of services to be rendered by us, this service shall be provided without cost and to the exclusion of all liabilities.
- 10.7 The restrictions of this § 10 shall not apply to our liability based on wilful conduct, for guaranteed characteristics of state, due to loss of life or injury to body or health, or under the Product Liability Act.

§ 11

Place of Performance, Place of Jurisdiction, Applicable Law

- 11.1 The place of performance for all obligations arising from the contractual relationship is our registered office or the registered office of our branch providing delivery or service. For all legal disputes, including in the context of a bill of exchange or cheque process, the exclusive place of jurisdiction is our headquarters.
- 11.2 The contract shall be subject to German law to the exclusion of the UN Law on Contracts for the International Sale of Goods (CISG).
- 11.3 Our previous General Terms and Conditions of Sale and Delivery hereby cease to apply.