

General Sales Terms and Conditions

1. Ordering

- 1.1 The following terms of payment and delivery only apply to traders and to those who deal with mutual trading transactions. Our terms of payment and delivery apply to all following business after they have reached the customer once. Nonconforming terms and conditions - as long as they are not stipulated in the entire offer and order confirmation - are not valid, even when we do not expressly disagree with them.
- 1.2 Our offers are subject to confirmation. Written, electronic or verbal orders made with us or our representatives are only valid for us when they are confirmed in written form or the orders conform to the consignment of the goods and the invoice. Alterations - also for current contracts - and additional agreements require written confirmation in every case for them to be valid.

In the case of electronic order transmission, the § 312 e para. 1 num. 1 to 3 of the German civil code (obligations in electronic commerce) is excluded. We are not obligated to confirm orders accessed via electronic channels.

In-coming emails, which are retrieved by us on workdays between 9:00am and 5:00pm CET, are considered closed at 5:00pm CET, unless an earlier retrieval can be proven. Emails, which we receive outside of this time frame, are considered closed at 5:00 pm CET on the next workday, unless an earlier retrieval can be proven.

Order stipulation and the general terms and conditions as well, are saved by us only in the case of non-individual communication and then can be sent to the customer by email request.

2. Prices, Charges

- 2.1 Our prices are calculated ex works or ex warehouse, unless otherwise agreed upon, exclusively packaging and other transaction fees. The customer must pay our advance freight costs, dispatch and handling costs in the case of unauthorised refusal of acceptance.
- 2.2 We calculate valid prices on the day of delivery or pick-up. If cost factors (prices for raw materials, operation materials, wages and freight) change the price formation before the end of the contract period, prices are then subject to change according to these factors.

3. Payment terms and conditions, Security, Compensation

- 3.1 The amount of invoice is payable 14 days after date of invoice, unless otherwise agreed upon, and is due net.
- 3.2 If we accept bank notes or cheques, these are only valid as payment when they are cleared by the bank. Discount charges and all cost incurred with the encashment of a bank note or cheque are paid by the customer. We do not take responsibility for timely presentations and protests. If a customer bank note is protested, we are entitled to back out of the current bank note.
- 3.3 If the customer has a delayed payment or their financial situation substantially worsens after closing the contract, be it filing for insolvency, opening composition proceedings, filing for a statutory declaration or warrant for arrest or the like, or if there is another reason that the service in return is threatened, then we reserve the right require advance payment or collateral. If our request is not allowed, then all outstanding money is immediately due. In this case, we are entitled to back out of the contract.
- 3.4 Interest at a rate of 8% over the base rate will be calculated for delays in payment; the right to assert a claim against continuing loss or damages. It is up to the customer to prove that absolutely no or little loss or damages occurred.
- 3.5 In relation to our claim, the customer can only offset it if a counterclaim is uncontested or legally arbitrated.
- 3.6 Our employees and sales representatives have no authority to collect.

4. Delivery and Acceptance

- 4.1 Delivery time is agreed upon as approximate. Binding delivery deadlines must be designated in writing.
- 4.2 If the customer has a delayed payment, then clause 3.3 applies.
- 4.3 In case we are delayed, the customer has to set an appropriate time extension for us. If this time extension runs out, then the customer is entitled, in this respect, to back out of the contract, when the goods are still not delivered. A full right to withdraw from the contract only exists if the buyer does not have any more interest in the previous deliveries.
- 4.4 Delivery time is extended accordingly with the occurrence of force majeure or other unpredictable circumstances, exceptional circumstances and situations which are no one's fault - whether it happens to us or our sub-contractors, it is considered the same - e.g. operation disruption, insufficient personnel, energy or raw materials, difficulties with finding means of transport, traffic disturbances, strike, shut-out or official measures. We are exempt from our delivery commitments when the aforementioned situations occur and make delivery or performance unacceptable or impossible.
- 4.5 If the delivery is delayed for other reasons, claims for compensation due to this delay is impossible according to § 286 of the German Civil Code, as long as there is not any intention or negligence on our side.

Entitlement to compensation is typically limited to predictable damages and/or losses.

- 4.6 Delivered quantities can be, when it concerns prepared goods, up to 10% above or below the targeted quantity. We reserve the right to place a minimum purchasing amount on small orders.
- 4.7 When orders and/or demands, which encompass several deliveries, we are entitled to purchase material for the entire order and manufacture the entire ordered quantity. Any customer wishes for changes can not be considered after distribution, unless it is expressly agreed upon.

5. Consignment, Passing of Risk, Partial Delivery

- 5.1 Packing, mode of transport and despatch type sequence is our choice, when not already agreed upon. Special or other packaging, like wood boxes, crates, pallets and cartons are put on the invoice.
- 5.2 Goods ready for consignment must be promptly retrieved; other wise we are entitled to store the goods at the customers cost and risk and to charge them as delivered ex works.
- 5.3 Risk is transferred to the customer with the release of goods to the forwarding agent or freight carrier, but at the latest with leaving the factory premises, or in the case of customer's default of acceptance at the point when the goods were announced as ready for consignment.
- 5.4 The customer can not send back a partial delivery.

6. Property and/or Patent Right, Tools

- 6.1 We own the property and/or Patent rights to all Quotations, drafts, designs and other documents of ours; third parties may only have access to any of the aforementioned articles when given expressly written permission. Drawings and other documents which are requested along with quotations must be returned in every case where an offer is not accepted.
- 6.2 Provided that we have delivered objects according to the customer's drawings, models, patterns and other documents, this takes over the guarantee that a third party's property and/or patent rights are not infringed upon. If a third party forbids us to produce and deliver objects, which are especially under property and/or patent right, then we are entitled to stop all production and request compensation for all costs incurred due to this third party property and/or patent right infringement when the third party proves infringement, unless the customer can prove that no infringement was incurred. The customer is responsible for exempting us from all claims by third parties.
- 6.3 Export of our goods, even in prepared form, the customer exempts us from all claims of property and/or patent right infringement by third parties.
- 6.4 Tools and forms remain our exclusive property, even with the assumption of proportionate costs, in consideration of production performance. We do not have compulsory safe keeping.

7. Retention of Title

- 7.1 All delivered goods remain our property until all demands have been fulfilled, especially the respective bottom line demands, which, for legal reasons, sets us against the customer, even when payment for special (retention goods) is made. If the hereby expressly agreed upon retention of title of the law in the country, in which the delivery articles can be found in each case, is not or is only partially recognized, the customer is obligated to indicate this by latest contract closing. The customer is required to co-operate with all measures (certifications, registrations etc.), which are necessary to safeguard the right to title retention or a corresponding local lien standards.
- 7.2 Processing and handling of the goods subject to retention of title are free of charge and obligation for us at manufactures, according to § 950 of the German Civil Code. Handled goods are considered goods subject to retention of title of para. 1.
- 7.3 If the customer processes, assembles and commingles the goods subject to retention with other goods, then we become co-owners of the new goods in relation to the invoice value of the goods subject to retention of title to the invoice value of the goods used.

If termination of our property due to assembly or commingling occurs, the customer transfers their current (co-) property right, which they are entitled to, on the new inventory or articles, within the scope of the invoice value of the goods subject to retention of title to us and store it free of charge. The same applies to articles developed from processing, assembly and commingling like those goods subject to retention of title according to para. 1.
- 7.4 The customer is only allowed to sell goods subject to retention of title with their normal business terms and conditions in normal business, as long as they are not delayed; however, provided that they transfer, as substitute for the retention of title, all requirements in accordance to the provisions from paragraph 5 to 9. The customer is not entitled to do anything with goods subject to retention of title, other than what was aforementioned. If seizure of other such measures from a third party occur, the customer is required to immediately inform us and, if need be, take immediate actions.

- 7.5 Customer claims, from the resale of goods subject to retention of title, will be assigned to us. We accept the assignment. They serve in the same scope of security as goods subject to retention of title.
- 7.6 If goods subject to retention of title are sold by the customer with other goods not delivered by us, then the assignment of claims from resale applies, but only in the amount of the resold goods subject to retention of title's invoice value.
- 7.7 With the resale of goods, which are in accordance to the co-owner share of paragraphs 2 to 4, then the assignment of claims in the amount of the co-owner's share apply. In this case, our share of claims on payments from a garnishee to the customer is initially not to be paid.
- 7.8 If the goods subject to retention of title are used in order to fulfil a contract for services or a contract for work and materials, then the requirements stated in paragraphs 5 and 6 of this contract apply.
- 7.9 The customer is entitled to collect claims from sales, those of which are in accordance to paragraphs 4 and 8, until it may be cancelled at any time by us. We will only use our right to cancellation when it seems our requirements are jeopardised or the customer does not fulfil their obligation to us.
We are also entitled, under these requisites, to require a delivery of goods subject to retention of title. The return of the goods in question does not apply as a rescission from the contract.
- 7.10 The customer is in no case authorized to assign a claim.
The customer is required, upon our demand, to immediately inform their contract partners of the assignment and then inform us - provided that we do not do this ourselves - and to give us the requested information and documents for collection of debt.
If the worth of the current collateral of the secured claim exceeds more than 10%, then we are required, upon the customer's request, to release collateral of our choice.
- 7.11 The customer is required to secure goods subject to retention of title against damages of all kinds, at their own cost. The customer transfers herewith all claims from the kept insurances; we accept this transfer.
- 8. Material defect warranties**
- 8.1 Delivered material must be promptly inspected for defects. Goods with defects must be reported to us immediately in written form. However, noticeable defects must be reported at least within 10 days after delivery.
- 8.2 If the goods are defective or are damaged within the time granted, we will repair it or send a replacement within an appropriate period determined by us. In the case of delivery recourse (§§ 478, 479 German Civil Code), it remains with the requirements from § 439 para.1 of the German Civil Code.
Warranties are void when the damage and/or defect is caused by
- the delivered articles being inappropriately handle (e.g. incorrectly or stored too long, not professionally installed) or is not being used for what it is intended according to the appropriate provisions which we provided (e.g. altered operation instruction or different installation points).
 - an installation point which was faulty (e.g. faulty mating faces on gaskets); improper external mediums were used (e.g. sealing compound, lubricant).
- Natural wear and tear is also exempted from the warranty.
- 8.3 The right to a warranty is subject to a period of 12 months after delivery.
For compensators, we assume the warranty for 8,000 work hours from start-up, the longest being 18 months after delivery (for deliveries in Germany) and/or 24 months after delivery (for international deliveries).
- 8.4 If we let an appropriately set time extension elapse, without rendering a replacement or without having repaired a defect, rectification fails, refusal of supplementary performance or the supplementary performance is unacceptable, then the customer is entitled, after exclusion of all other requirements, to back out of the contract or request a reduction, of their choice, on the purchasing price, as well as in the following limits of compensation.
- 8.5 A claim for damages instead of service is exempted in the case that we do not yield a due service or yield it how it is required (§ 281 German Civil Code) and/or we breach an obligation (§ 241 para. 2 German Civil Code) or secondary obligation (§ 281 German Civil Code), provided that we are only accused of simple negligence. This does not apply, provided that the contract obligation and/or the cardinal obligation were breached. A claim for damages is typically limited to predictable damages.
- 8.6 Other claims are exempted, no matter which legal reason. This does not apply to damages based on injuries to life, body or health, which is due to a negligent breach of obligation on our side or an intentional or negligent breach of obligation on the side of our legal representative or auxiliary persons. Claims according to the law of product liability are also not exempted.
- 8.7 We are responsible for replacement parts and reworking in the same scope as the originally delivered articles; the warranty period is renewed for replacement part deliveries.
- 8.8 Our documentation for delivery and performance articles, for application purposes etc. (e.g. sizes, weights, hardness, application value) solely represent descriptions and/or markings and do not represent guarantees; these are only guidelines; discrepancies usual to the industry are subject to remain. Properties are not guaranteed when they confirm to delivered patterns, which are tested by the customer for special purposes and are released for this reason.
Insignificant deviations from patterns or from former deliveries or from other documentation are not reasons, as long as they do not significantly affect presumed functional ability, for a warranty claim.
- 8.9 In all these cases damages are restricted to the amount our insurer incurred and paid.
- 9. Information and Consultation**
Information about process and application possibilities of our products, technical consultation and other detailed information are done to the best of our knowledge; however, excluding us from all liability.
- 10. Place of fulfilment, Jurisdiction, Application of German Rights**
- 10.1 Oberhausen (Rheinland) is the place of fulfilment for our supply obligations from the contractual relationship, as well as the exclusive jurisdiction for everything out of the contractual relationship, from its origin and its effectiveness accruing legal disputes. We are also entitled to sue the customer in their general jurisdiction.
- 10.2 Contract law is subject to the laws of the Federal Republic of Germany, with the exception of the UN-Convention from April 11, 1980 about international purchasing of goods (CISG).
- 11. Partial Ineffectiveness**
If parts of these general sales terms and conditions are or become ineffective, the effectiveness of the remaining clauses thereby will not be affected. The legal operative clause, which is nearest to pursuing the same purpose as the ineffective clause, applies.

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