

Terms of Sale and Delivery

§ 1 General – Scope

Our deliveries, performances and offers are executed exclusively under these Terms of Sale. The same hence apply also to all future business relations, even when not expressly agreed on again. These Terms are considered as accepted at the latest with taking delivery of the goods or performance. Counter-acknowledgments by the Customer with reference to his terms and conditions of business or of purchase are hereby objected. Our Terms and Conditions of Business are only applicable to entrepreneurs in terms of §310, sub-par. 1 BGB / German Civil Code.

§ 2 Offers, Offer Documents, Revocation

- (1) Our offers are not binding, unless otherwise agreed.
- (2) If the order is to be qualified as an offer in terms of § 145 BGB / German Civil Code, we may accept it within two weeks. Declarations of acceptance require our written or teleprinted confirmation to be legally effective.
- (3) Orders, also when made by telephone, telefax or internet, may not be revoked by the unilaterally by the Orderer. This requires our consent. Such a case incurs a handling fee the amount of which depends on the respective valid price list.
- (4) To graphs, drawings, calculations and other documents we reserve ourselves the proprietorship and copyrights. To any passing to third parties the Order requires our express written consent.
- (5) Drawings, graphs, measures, weight indications or other performance data are only binding if this is expressly agreed on in writing.

§ 3 Prices – Terms of Payment

- (1) All prices are indicated in € respectively the currency valid in the particular sales territory, plus the legal VAT. All price indications within the scope of the price list, the catalogue, or our website are without guaranty. Prices are subject to alteration without notice.
- (2) As far as the confirmation of order/invoice does not show otherwise, the purchase price becomes due for payment net (without allowance) within 30 days from the date of invoice on. Payments must be made by bank transfer, direct debit authorization, or in cash.
Cheques are only accepted upon prior agreement, the accruing bank charges, especially the charges accrued for cheques returned by the bank are put to the Customer's account. Bills of exchange are not accepted.
- (3) As for the rest, the statutory regulations are valid at delay in payment by the Orderer. This means among other things that at delay in payment interest to the amount of 8% above the basic interest rate is charged. Payment shall not be considered as being effected but upon having been entered to our account or with the amount having been handed over in cash.
- (4) The Orderer is entitled to deduct 5% discount at payment within 3 days from the date of invoice on or when granting an irrevocable direct debit authorization. At payments between the 4th and 10th day from the date of invoice on a 3% discount deduction is permissible. From the 11th day from the date of invoice on the invoice must be settled net.
The Orderer is only entitled to a discount deduction when also all former invoices have been settled in total.
- (5) The Orderer is only entitled to set-off rights if his counterclaims have become res judicata, are uncontested or allowed by us and if they arise from the same contractual relationship.

§ 4 Delivery Time – Passing of Risk

- (1) Delivery dates or periods must be in writing.
Indicated delivery times are not binding or guaranteed as far as an express delivery term guaranty does not result from a written confirmation. Transactions for delivery by a fixed date are not made. In case of a delay in delivery the Orderer is obliged to grant us in the first place an additional period of time of reasonable length for delivery.
Before the expiration of the additional period of time any claims by the Orderer for delayed delivery are excluded.
- (2) The observance of our supply commitment implies the timely and correct performance of the Orderer's obligation, especially his faultless and complete placing of order and the timely settlement of invoices due for preceding orders.
The defence of lack of performance of contract is reserved.
- (3) With the Orderer's delay or refuse to take delivery, the written assertion of our readiness to deliver shall be sufficient to constitute a delay in accepting delivery.
- (4) In such case we are entitled to demand to have recovered the damage insofar incurred including contingent additional expenditure. More extensive claims remain reserved.

- (5) With the delay in accepting delivery the risk of accidental loss or of accidental deterioration of the good sold passes to the Orderer. As for the rest, the risk passes to the Orderer at the latest with the handing over of the goods to the transport person, and this even with partial consignments or when we have assumed other performances as for example the forwarding charges.
- (6) We are liable for a delay in delivery according to the legal provisions as far as the same constitutes a breach of contract caused intentionally or by gross negligence on our side. Insofar as there is no breach of contract by intention or gross negligence, any liability for damages is excluded.
- As for the rest, we are liable according to the legal provisions as far as we culpably committed breach of an essential contractual obligation; in such case the liability for damages is yet limited to the foreseeable, typically incurring damage.
- As for the rest, we are in case of delay in delivery liable to maximally 15% of the delivery value.
- (7) Delays in delivery and of performance due to force majeure and due to events that substantially impede or make impossible delivery on our side – to which belong especially strike, lockouts, official directives, etc., also when they occur with our suppliers or their sub-contractors -, are not within our responsibility even in case of bindingly fixed terms and dates. They entitle us to postpone the delivery respectively the performance for the period of the impediment plus a reasonable starting period or to repudiate the contract in whole or in part concerning its not yet executed part.
- Should the impediment last longer than three months the Orderer, upon having granted a reasonable extension is entitled to withdraw from the contract concerning its not yet executed part. From a prolonged delivery time or a release from our obligation the Orderer may not derive any claims for damages. We can only invoke the described circumstances when we inform the Orderer without delay.

§ 5 Delivery – Shipping Charges

- (1) As far as not otherwise provided for in the respective valid price list, delivery “ex works” (EXW) is agreed. Shipping charges and packing costs are extra.
- (2) Transport- and all other packings under the German Packaging Regulations / Verpackungsordnung are not taken back. It is with the Orderer to care for the disposal of the packings at his own expenses.
- (3) An order value below 50 € entitles us to charge a minimum quantity surcharge of 5 €.
- (4) Partial deliveries by us are permitted as far as not excluded in writing by the Orderer.

§ 6 Returns

- (1) We do not accept returns of goods but upon prior agreement.
- (2) The Orderer shall only send goods in perfect condition and in original packing.
- (3) An agreed taking back of goods is subject to handling costs for control and restoring, and a possible time-related value decrease.

§ 7 Liability for Defects

- (1) Precondition for claims for defects of the Orderer is that the same immediately controls the goods in terms of § 377 HGB / German Commercial Code and immediately claims possible defects. The goods delivered are deemed to be of perfect condition when obvious defects are not claimed within 10 working days at the latest, other defects not within 6 months at the latest.
- In case of alterations of the delivered goods by the Orderer or third parties any warranty is excluded.
- (2) To the extent that a good sold is defect we are at our choice entitled to subsequent performance in the form of remedy of the defect or to the delivery of a new good in perfect condition. In such cases the Orderer has no claim for reimbursement of his expenses, as especially transport charges, tolls, and labour- and materials costs.
- (3) Customary or marginal technically unavoidable deviations from quality, colour, mass, equipment, or design are no defect of the goods.
- (4) If subsequent performance fails the Orderer is at his choice entitled to demand withdrawal or reduction.
- (5) We are liable according to the legal provisions as far as the Orderer asserts claims for damages for intent or gross negligence. Insofar as there is no breach of contract by intention or gross negligence, any liability for damages is excluded.
- We are liable according to the legal provisions as far as we culpably committed breach of an essential contractual obligation; in such case the liability for damages is yet limited to the foreseeable, typically incurring damage.
- (6) Liability for culpable injury of life, injury of the body or health remains unaffected; this applies also for the compulsory liability under the German Product Liability Act / Produkthaftungsgesetz.
- (7) Unless otherwise provided for above, any liability is excluded.

- (8) Excluded from warranty claims are damages resulting from usual wear and tear, overstrain, improper use, negligent care, and non-compliance with the instructions of use.
- (9) The prescription period in case of a claim is 12 month, calculated from day of delivery.
- (10) The prescription period in case of a recourse for delivery in terms of §§ 478, 479 BGB / German Civil Code remains unaffected.
- (11) We reserve ourselves the right of constructional modification at any time but are not obliged to perform such modifications on goods already delivered.

§ 8 Joint Liability

- (1) A liability for damages beyond that provided for in § 7 is excluded – notwithstanding the legal nature of the asserted claim. This applies especially to claims for damages for culpa in contrahendo, for other neglect of duty, or for claims in tort for the replacement of material damages in terms of § 823 BGB / German Civil Code.
- (2) In case of the processing of fabrics of the Orderer by us, our liability for not culpable damage or loss of the fabric is limited to maximally 70,00 € per meter of fabric.
If the Orderer makes available more expensive fabric for processing, this is at his own risk, provided that the parties have before agreed in writing on the processing of the more expensive fabric and the spread of risk.
- (3) As far as our liability for damage is excluded or limited, this applies also with regard to the personal liability for damages of our staff, employees, collaborators, selling agents, and persons employed in the performance of our obligation.

§ 9 Securing of Reservation of Title

- (1) We reserve ourselves title to the good sold until satisfaction of all our actual or future claims against the Offerer (including all current account debit balance claims) for whatever cause in law. With the Offerer being in breach of contract, especially at delay in payment we are entitled to take back the good sold. Our taking back the good sold does not represent a termination of the contract, provided that this had expressly been declared by us in writing. Our attachment of the good sold represents always a termination of the contract. With the good sold taken back we are entitled to its utilization. The proceeds of utilization are credited against the liabilities of the Orderer – with deduction being made of a reasonable amount of utilization costs.
- (2) In case of attachments or other interferences by third parties the Orderer shall inform us in writing without delay.
- (3) Processing or alteration are always made for us as the Manufacturers but without obligation for us. With the (co-) ownership of the Orderer terminating by combination, it is already now agreed that that the Orderer's (co-)ownership of the united good as to its pro rata value (invoice value) passes to us. The Orderer preserves the (co-)owned good for us at no expense. Goods of which we have (co-)ownership are hereinafter called reserved goods.
- (4) The Orderer is entitled to resell the reserved goods in the ordinary course of business; though he already now assigns to us to the amount of our claimed invoice total (including VAT) all of his claims accrued to him by such resale against his buyers or third parties, regardless of the reserved goods having been resold without or after processing. To the collection of such claim the Orderer remains entitled also after this assignment. Our authority to collect the claim ourselves remains unaffected hereof. We yet undertake to collect the claim only when the Orderer does not comply with his obligation to pay from the collected proceeds, defaults, and especially when petition in bankruptcy or for the institution of composition proceedings or insolvency proceedings has been filed, or a suspension of payments exists. Should this be the case we can require the Orderer to make known to us the assigned claims and their debtors, make all indications required for collection, hand over all related documents, and to inform the debtors (third parties) of the assignment.
- (5) We undertake to release upon request the claims due to us insofar as the realisable value of our securities amounts the claims to be secured by more than 10%; the choice of the claims to be released is with us.

§ 10 Final Provisions

- (1) If the Orderer is a businessman, place of venue is our place of business; though we are entitled to bring the Orderer before a court of his residence.
- (2) Any agreement modifying or additional to the above provisions must be made in writing to become effective. This applies also to a waiver of the written form.
- (3) Should one of the provisions of these Terms of Business or a provision within the scope of any other agreement be or become invalid, this shall not affect the validity of the remaining provisions or agreements.
- (4) The Law of the Federal Republic of Germany shall be the governing Law; the validity of the UN-Convention on Contracts for the International Sale of Goods is excluded.
- (5) Provided that not indicated otherwise in the confirmation of order/invoice, place of performance, delivery, and payment is our place of business.