

General Terms and Conditions of Delivery and Payment

1. General - Scope of Application

1.1 Our terms and conditions of delivery and payment (hereinafter referred to as „Terms and Conditions“) shall apply exclusively for all of our deliveries and services (hereinafter referred to as „Deliveries“). We do not accept any Buyer's terms and conditions of delivery and payment contrary hereto or deviating herefrom, or relating to matters which are not regulated in these Terms and Conditions unless we have expressly agreed in writing. Our Terms and Conditions shall also apply if we effect the Delivery to the Buyer without reservation in full awareness of such contrary or deviating Buyer's terms and conditions or relating to matters not laid down herein, or if the Buyer refers in its offer respectively in its confirmation of order to the application of its terms and conditions.

1.2 All agreements which are made between us and the Buyer for the purpose of performing a contract are laid down in written form in the contract and those Terms and Conditions.

1.3 Our Terms and Conditions shall only apply to an entrepreneur as defined in Article 14 BGB (German Civil Code).

1.4 Within the scope of current business relations, our Terms and Conditions shall also apply to repeat orders.

2. Offer - Offer Documents

2.1 Our offer shall not be binding, unless otherwise agreed.

2.2 Unless otherwise agreed, illustrations, drawings, calculations and any other documents relating to products, applications or projects which contain valuable know-how shall remain our property and shall be subject to our copyright even if we place them at the Buyer's disposal. Without our express prior consent, they may be neither reproduced nor made accessible to third parties.

3. Prices - Terms of Payment

3.1 Unless otherwise agreed, our prices shall be quoted „ex works“ (INCOTERMS 2010), exclusive of packing and transportation costs. These shall be charged for separately.

3.2 Statutory value-added tax is not included in our quoted prices. It will be shown separately in the invoice in the statutory amount applicable at invoicing date.

3.3 Discounts may be deducted only by special written agreement.

3.4 Unless otherwise agreed, the purchase price shall be due for payment net (without any deduction) within 30 days of the date of the invoice. Should the Buyer fail to pay in due date, we are entitled to charge default interest at a rate 8 percentage points higher than the each published base rate (Basiszinssatz, Article 247 BGB (German Civil Code)).

3.5 Unless otherwise agreed, for tools made to drawings, special designs or projects, payment shall be made as follows:

- 1/3 advance payment upon receipt of the acknowledgement of the order;
- 1/3 upon receipt of the delivery;
- 1/3 fourteen (14) days after acceptance

3.6 The Buyer is only permitted to offset against our claims if its counterclaims have been confirmed by final court judgement, are uncontested or acknowledged by us. The same applies for rights for retention and for rights to refuse performance; besides the Buyer may exercise a right for retention only if its counterclaim is based on the same contractual relationship.

4. Delivery - Delivery Time

4.1 Unless otherwise agreed, the delivery shall be made „ex works“ (INCOTERMS 2010) referring to the place named in our offer or in our acceptance. If there is named no place in the offer/acceptance the delivery shall be made „ex works“ Besigheim, Germany.

4.2 Condition precedent for the observance of the agreed date or period of performance is the due and correct reply of technical questions the buyer is obliged to clarify.

4.3 Further condition precedent for the observance of the agreed date or period of performance is the due and correct performance of all obligations of the Buyer, in particular the adherence of the agreed terms of payment. We reserve the defense of non-performance of the contract.

4.4 Should the Buyer be in default or infringe culpably other obligations to cooperate, we are entitled to demand compensation to this extent for the loss or damage we have incurred, including any additional expenses. The right to claim higher damages is reserved.

4.5 Provided that the requirements of Article 4.4 are fulfilled the risk of accidental loss, destruction or deterioration of the purchased goods passes to the Buyer at date of default of acceptance or at date of default of the debtor.

4.6 If failure to make Delivery by the agreed date is due to force majeure, i.e. an unforeseeable event on which we have no influence in which we are responsible for (e.g. official measures or orders (irrespective if they are valid or invalid), fire, floods, storms, explosions or any other natural disasters, mobilizations, wars), the delivery period shall be extended by the duration of the event causing the delay, insofar as it can be proved that these obstacles affect completion or Delivery more than slightly. This shall also apply if such circumstances occur with our suppliers.

4.7 We shall be released from our Delivery obligation if the correct goods ordered for performing the contract have not been delivered in due time.

4.8 Partial Deliveries are permitted in an acceptable extent.

4.9 Unless otherwise agreed, and provided that it is reasonable for the Buyer in the individual case we are entitled to exceed the agreed delivery quantity in a range of +/- 10 %. In any case the Buyer has only to pay for the effective delivered quantity.

4.10 We are liable for delays in Delivery in accordance with statutory provisions in consideration of the restrictions regulated in Article 9 and the following provision:

If the delay in Delivery has been caused merely by simple negligence and there is no mandatory liability for injury to life, body or health or for taking over a guarantee or a procurement risk, our liability for loss or damage caused by delays shall be limited as follows: for each completed week of delay, the Buyer may demand 0,5 % of the price for the parts of the Delivery that could not be put into useful operation due to the delay but not more than 5 % altogether. This provision does not entail a change in the burden of proof to the prejudice of the Buyer. The Buyer's statutory right to withdraw from the contract shall remain unaffected.

4.11 Should the Buyer be in default of acceptance we are entitled to charge the Buyer for storage of the goods affected by the default of acceptance with the cost incurred hereby, at minimum to the amount of 0,5 % of the price of the goods affected by the default of acceptance for each week commenced, but not more than 5 % altogether. The parties shall be at liberty to furnish proof of higher, lower or no storage costs. The statutory rights to withdraw from the contract and to claim for damages remain unaffected.

5. Passing of Risk

Unless otherwise agreed, with regard to passing of risk it shall be deemed agreed „ex works“ (INCOTERMS 2010), even in cases where we have taken out transport insurance for shipment to the German border at our expense.

6. Defects

For defects, we shall be liable as follows:

6.1 The Buyer agrees with us that in case of a claim for supplementary performance (subsequent improvement or additional delivery) the most cost-effective alternative shall be chosen, provided that the Buyer suffers no disadvantage thereby.

6.2 Claims for defects shall be subject to a limitation period of twelve (12) months from the date of passing of risk (Article 5). This shall not apply insofar as pursuant to § 438 Para 1, clause 2 BGB (buildings and objects used in buildings), § 478 Para 1 BGB (right of recourse), § 634a BGB (construction defects) and § 438 Para 2 BGB (fraudulent intent) provide for longer periods and in cases of a liability for damage from injury to life, body or health as well as in cases of a liability for damage arising from an intentional or grossly negligent breach of duty.

6.3 The Buyer shall notify us immediately in writing of defects, but at the latest within seven days after performance (obvious defects) or date of discovering the defect. Otherwise claims based on defects will be excluded. We disagree with any restriction of Buyer's legal obligations to investigate the goods and to complain (especially pursuant to § 377 HGB (German Commercial Code)).

6.4 In the event of a notice of defects, the Buyer may withhold payments solely in an amount which is reasonably commensurate with the defects which have occurred. The Buyer may withhold payments only if a notice of defects is justified beyond any doubt. If a notice of defect is not justified, we are entitled to compensation from the Buyer for the expenses we thereby incurred.

6.5 First we shall always be given the opportunity to provide supplementary performance within a reasonable period of time.

6.6 Supplementary performances pursuant to § 439 Para 1 BGB (German Civil Code) will be carried out by us for obligingness and without prejudice only, unless we have reached a different agreement with the Buyer or we have accepted claims of supplementary performance before or in connection with supplementary performances explicitly.

6.7 There is no entitlement to claims based on defects

- (a) due to natural wear and tear,
- (b) due to problems and/or damage that occurs after the passage of risk as a result of incorrect or negligent handling,
- (c) due to problems and/or damage that occurs after the passage of risk as a result of excessive strain and/or unsuitable working materials,
- (d) due to problems and/or damage that occurs as a result of special external influences which were not assumed in the contract,
- (e) if the Buyer or third parties improperly perform changes or repairs,
- (f) if the Buyer or third parties perform changes regarding the product of purchase which are not expressly authorized in our sales documents or we have not consented in advance to,
- (g) if the Buyer or third parties furnishes the product of purchase with equipment which is not authorised or recommended by us.

6.8 Buyer's claims for expenses necessary for the purpose of supplementary performance, particularly transport, tolls, labour and material costs, are excluded if expenses increase because the delivered goods have subsequently been brought to a place other than the Buyer's place of business, unless such relocation is required for the use for which the goods are intended.

6.9 The Buyer's statutory rights of withdraw from contract against us shall exist only in so far as the Buyer has made no agreement with its customer exceeding the claims for defects allowed by German law.

6.10 Article 9 shall apply to claims for damages. Claims over and above these claims based on defects other than those regulated in this Article 6 or in Article 9 are excluded.

7. Industrial Property Rights and Copyrights - Defects of Title

Unless otherwise agreed, we are obligated to effect Delivery free of third-party industrial property rights only with respect to the country where the goods are produced or where delivery of the goods is made. „Industrial Property Rights“ in terms of these Terms and Conditions are patents, utility models, design patents, trademarks, including their applications, as well as copyrights. Should a third party assert justified claims against the Buyer for an infringement of Industrial Property Rights by Deliveries effected by us and used as stipulated in the contract, we shall be liable to the Buyer within the period of time set forth in Article 6.2 as follows:

7.1 At our option and at our expense, we shall either acquire the right to use the Deliveries concerned, or modify them so that the Industrial Property Right is no longer infringed, or replace them. Should this prove impossible to do on reasonable terms, the Buyer shall have the statutory right to withdraw from the contract or to reduce the purchase price. Our obligation to pay damages shall be in accordance with Article 9.

7.2 The abovementioned obligations shall exist only if the Buyer informs us immediately in writing of the claims asserted by the third party, has not acknowledged infringement, and all defensive measures and settlement negotiations are reserved to us. Should the Buyer cease to use the delivered goods in order to reduce damages or for other important reasons, it shall point out to the third party that cessation of use cannot be construed as an acknowledgement of an infringement of Industrial Property Rights.

7.3 The Buyer shall have no claims insofar as he is solely responsible for an infringement of Industrial Property Rights.

7.4 Furthermore, Buyer's claims are excluded insofar the infringement of an Industrial Property Right has been caused by the Buyer's special instructions, by an application not envisaged by us, by a modification of the delivered goods by the Buyer or through use together with products not delivered by us.

7.5 In the event of infringements of Industrial Property Rights, the provisions of Article 6.4, 6.5 and 6.9 shall apply accordingly to the claims of the Buyer regulated in Article 7.1.

7.6 More extensive claims on the part of the Buyer or claims against us or against our vicarious agents based on defects of title other than those regulated in this Article 7 are excluded.

8. Production of Products on the Basis of Drawings - Changes regarding the Products - Instruction Manuals

8.1 When the Buyer makes us available in connection with the delivery of products models, samples, data, descriptions, sketches, drawings, plans or other documentation (hereinafter jointly referred to as „Documentation“) regarding the products or Documentation regarding the parts the products are made with the Buyer is responsible that this Documentation is complete and correct. Further the Buyer must make separate inspections if the products which are respectively which will be made on the basis of such Documentation do conform to all specifications of the Documentation.

8.2 The Buyer is not entitled to make changes regarding the products without our prior consent.

8.3 In case we have to provide the Buyer with an instruction manual we make them only available in German and in English language. We provide the Buyer with instruction manuals in other languages only on express written demand and only if the instruction manuals are available in the desired language.

9. Overall Liability

9.1 We shall be liable for damage and for the refund of futile expenditure in the meaning of Article 284 BGB (hereinafter referred to as „Damages“) on grounds of defective delivered goods or services, or on grounds of a breach of any contractual or non-contractual obligation, in particular on grounds of tort, only in cases of intent or gross negligence. The above limitation of liability shall not apply in cases of injury to life, body or health pursuant to our taking over a guarantee or procurement risk, a breach of essential contractual obligations or liability pursuant to the Produkthaftungsgesetz (German Product Liability Act).

9.2 Damages on grounds of violation of material contractual obligations shall be limited to damages typical for the contract which must have been foreseeable by us under the circumstances at the time of execution of contract provided (a) that there was no intent or gross negligence, and (b) that it does not involve injury to life, body or health, the taking over of a guarantee or procurement risk and (c) that we are not liable pursuant to the Produkthaftungsgesetz (German Product Liability Act).

9.3 Foreseeable damages typical for the contract in the meaning of Article 9.2 are:

- a) in each case: in maximum the fivefold amount of the cost price of the order affected, and
- b) in maximum per calendar year in regard to the respective Buyer: the double net turnover in which amount the Buyer has purchased goods from us in the respective year until the occurrence of the damage event.

9.4 Irrespective of Article 9.3 the amount of damages to be paid by us shall be determined by having, adequately in favour of the supplier, due regard to the economic situation of us, nature, scope, and duration of the business relationship, possible causative and responsible contributions by the Buyer according to § 254 BGB. Especially damages, cost and expenditures which shall be paid by us have to be in an appropriate relationship to the value of his part being delivered.

9.5 All limitations of liability shall apply to the same extent to vicarious agents.

9.6 The foregoing provisions shall not bring about a change of the burden of proof to the prejudice of the Buyer.

9.7 Material contractual obligations in the meaning of Article 9.1 and 9.2 are obligations which performance just enables the correct execution of the contract and on which adherence the Buyer may trust.

10. Reservation of title

10.1 We reserve title in the delivered goods (reserved goods) until all claims against the Buyer due to us under the business relationship have been satisfied. This also applies in case the payment for certain deliveries of goods by the Buyer has been made. If the value of all security interest due to us against the Buyer exceeds the amount of all secured claims by more than 10%, then, at Buyer's request, we shall release a corresponding part of the security interest.

10.2 As long as title is reserved, the Buyer shall neither pledge the goods nor assign them by way of security. Resale shall be permitted only to resellers in the ordinary course of their business and only on condition that the reseller receives payment from its customer or stipulates that title shall not pass to the customer until it has satisfied its payment obligations.

10.3 In the event of attachments, seizures or other disposals or interventions on the part of third parties, the Buyer shall notify us immediately so as to permit us to take legal action pursuant to Article 771 ZPO (German Code of Civil Procedure). Insofar as the third party is not in the position to reimburse us for the judicial and non-judicial costs of a legal action pursuant to Article 771 ZPO, the Buyer shall be liable for the loss we have sustained.

10.4 The Buyer shall handle the purchased goods with care. In particular, it shall insure them sufficiently at their replacement value against damage by fire, water and theft at its own expense. Should maintenance and inspection work be necessary, the Buyer shall carry this out in due time at its own expense.

10.5 If the Buyer is in breach of its obligations, in particular if it is delay in payment, we are entitled to withdraw from the contract and to recover the goods. The Buyer has an obligation to return the goods.

10.6 If the Buyer resells the purchased goods in the ordinary course of business, it hereby assigns to us all claims in an amount corresponding to the total invoiced amount (including VAT) of our payment claim, due to it from the resale against customers or third parties, regardless of whether the purchased goods have been resold unprocessed or after processing. Even after the assignment, the Buyer shall remain authorized to collect this claim. This shall not affect our right to collect the claim ourselves. However, we undertake not to collect the claim as long as the Buyer meets its obligations to pay from the proceeds received, does not default on payment and, in particular, no petition to institute insolvency proceedings has been filed and the Buyer has not ceased to make payments. Should this be the case, however, we can require the Buyer to disclose the assigned claims and the names of the debtors to us, to provide all the information needed for collection, to hand over the pertinent records, and to inform the debtors (third parties) of the assignment.

10.7 Processing or transformation of the goods bought by the Buyer shall always be deemed effected on our behalf. If the purchased goods are processed with other goods not owned by us, we shall acquire co-ownership of the new product in the proportion of the value of the purchased goods (total invoiced amount including VAT) to the other processed goods at the time of processing. For the rest, the product created through processing shall be subject to the same provisions as apply to purchased goods delivered with reservation of title.

10.8 If the purchased goods are inseparably mixed with other goods which are not our property, we shall acquire a share of property in the new product in the same proportion as the value of the purchased goods (total invoiced amount including VAT) has to the value of the other mixed products at the time of mixing. Should the mixture be effected in such a manner that the Buyer's goods are to be regarded as the main goods, it shall be deemed agreed that the Buyer shall assign co-ownership to us on a pro rata basis. The goods thus created in which we hold sole or joint property shall be held by the Buyer in safekeeping on our behalf.

11. Place of performance, jurisdiction, applicable law

11.1 For all rights and obligations resulting from our deliveries and services, the domicile of our company shall be the place of performance for both parties.

11.2 The Amtsgericht (local court) Besigheim is agreed to be the place of jurisdiction for legal actions falling within the subject-matter jurisdiction of Amtsgerichte (local courts), and the Landgericht (regional court) Stuttgart for legal actions which fall within the subject-matter jurisdiction of Landgerichte (regional courts). We are also entitled to start a legal action at Buyer's domicile.

11.3 The contractual relationship shall be subject to the laws of the Federal Republic of Germany without giving effect to its conflict of law principles.

11.4 The data provided by the Buyer shall be stored and processed by means of EDP insofar as this is permissible under Articles 28, 29 of the Bundesdatenschutzgesetz (BDSG, German Federal Data Protection Act). In accordance with the rules of Article 28a BDSG the violation of agreed terms of payment will cause a transfer of data of the Buyer to credit agencies and collection agencies who cooperate with us.