

General terms and conditions of sale and supply

§ 1 General – Scope

1. Our terms and conditions of sale are exclusively applicable; we do not recognise terms of the buyer inconsistent with or deviating from our terms and conditions of sale unless we have expressly accepted their validity in writing. Our terms and conditions of sale are also valid if we unconditionally execute the delivery to the buyer, knowing that the buyer's terms are inconsistent with or deviate from our terms and conditions of sale.
2. All agreements concluded between us and the buyer in terms of execution of this contract are included in this contract, in writing.
3. Our terms and conditions of sale are only applicable to companies and body corporates under public law or a special fund under public law pursuant to § 310 para. 1 BGB [Civil Code].
4. Supplemental hereto, the ECE regulations of the International Chamber of Commerce in Paris, in their valid version, are applicable to cross-border transactions.

§ 2 Proposals – Conclusion of the contract

1. Proposals are always subject to confirmation.
2. The contract only enters into force after our order confirmation or execution of the order. The order must qualify as a proposal pursuant to § 145 BGB. We can accept these within two weeks.

§ 3 Prices – Terms of payment

1. Our prices are quoted in EURO unless otherwise agreed.
2. Unless specified otherwise in our order confirmation, our prices are "ex works", excluding packaging, which is invoiced separately.
3. Our prices do not include statutory value added tax; this is shown separately on the invoice as legally applicable VAT on the day of invoicing.
4. Unless specified otherwise in the order confirmation, the purchase price is payable within 30 days from date of invoice, net and without deductions. The legal regulations governing the consequences of default on payment shall apply. Payment within 10 days from date of invoice shall qualify for a 2% discount. The date of delivery is deemed the date of invoicing.
5. We are not obligated to accept bills of exchange.
6. We reserve the right to adjust our prices in the event of cost reductions or increases after conclusion of the contract, especially as a result of tariff agreements or changes in the cost of materials. On request, we shall present proof to the buyer.
7. The buyer is only entitled to set-off if his counterclaims are confirmed by final judgement or undisputed or recognised by us. He is, furthermore, entitled to exercise right of retention insofar as his counterclaim is based on the same contractual relationship.

§ 4 Delivery

1. Delivery is at the risk of the buyer. On request of the buyer, we can insure the shipment with a cargo insurer; the buyer shall bear the arising cost.
2. Claims for transportation damage shall be asserted directly by the buyer against the carrier, within the specific time frame.
3. Transportation packaging and all other packaging in accordance with the packaging regulations is not taken back; pallets excluded. The buyer is obliged to dispose of packaging on own account.

§ 5 Disturbance of contract

1. Unavoidable interruption of operations, failure to meet delivery dates, loss of upstream suppliers, shortage of energy and raw material, traffic congestions, war and strikes, lockouts, official regulations and force majeure events release us from the obligation to deliver, for the duration of the disturbance and the extent of its effects.
2. Such events entitle us to withdraw from the contract, fully or in part, or to suitably extend the delivery time without the buyer being entitled to compensation.

§ 6 Liability for defects

1. The goods shall comply with the current state-of-the-art and the concluded quality agreements.
2. The rights of the buyer to remedy of defects presuppose that he has duly met his obligations to inspect and notify, pursuant to § 377 HGB [Commercial Code]. The buyer is obliged, in particular, to meet inspection and testing obligations under his own operating conditions.
3. Volume differences up to 10% are no ground for claims since these are inherent in the manufacturing process.
4. In the event of defective purchased goods, the buyer is entitled to optionally demand supplementary performance by repair or demand delivery of new goods without defect. In the event of repairs, we undertake to carry all costs, especially transport, road, working and material costs of remedying defects, provided these costs are not increased due to delivery of the purchased goods to a location other than the place of performance. In the event of repairs, we shall carry the cost up to the amount of the purchase price.
5. If supplementary performance fails, the buyer is entitled to optionally demand cancellation or a discount.
6. We, including our representatives and vicarious agents, are liable pursuant to legal regulations for the buyer's claims for damages based on intent or gross negligence. Unless we are culpable of deliberate breach of contract, liability for damages shall be limited to the foreseeable, typically damage to be expected.
7. We are liable pursuant to legal regulations for culpable fundamental breach of contract; but liability for damages is in that case limited to the foreseeable and typically occurring damage.
8. Insofar as the buyer has a right to claim for replacement of damage instead of the service, our liability shall again, within the framework of Paragraph 4, be limited to compensation for the foreseeable and typically to be expected damage.
9. Liability following culpable injury to life, limb and health shall remain unaffected. This is also applicable to mandatory liability under the Product Liability Act.
10. Liability is excluded unless arranged otherwise above.
11. Claims for defects are subject to a 12-month statute of limitation, effective as from passing of risk.

§ 7 Joint and several liability

1. Liability for compensation exceeding that provided for in § 6 shall be excluded – regardless of the legal basis of the asserted claim. This is applicable, in particular, to claims for culpable damages arising from conclusion of the contract and for other breaches of duty, or to tort claims for compensation of material damages pursuant to § 823 BGB.
2. Insofar as the liability towards us for damages is excluded or limited, such liability shall likewise be excluded or limited towards our staff, employees, co-workers, representatives and vicarious agents.

§ 8 Securing of reservation of proprietary rights

1. We reserve proprietary rights to the purchased goods until all payments under the supply contract have been made. We are entitled to recover the purchased goods should the buyer be in breach of contract, especially by defaulting on payment. Recovery of the purchased goods does not imply our withdrawal from the contract, unless expressly stated by us, in writing. Attachment of the purchased goods by us always constitutes withdrawal from the contract. We are entitled to utilise the purchased goods after recovery; the proceeds of sale shall be credited against the buyer's payables – minus reasonable cost of utilisation.

2. The buyer is obligated to handle the purchased goods with care; he is obligated in particular to adequately insure such goods against damage by fire, water and theft, at replacement value and at his expense.

3. In the case of attachment or other actions by third parties, the buyer shall immediately notify us in writing, to enable us to take action pursuant to § 771 ZPO [Code of Civil Procedure]. Insofar as the third party is not in a position to reimburse us for the costs of legal action pursuant to § 771 ZPO in or out of court, the buyer shall be liable for our accrued cost.

4. The buyer is entitled to re-sell the purchased goods in the regular course of business. He shall, however, cede to us in advance all receivables due to him from his clients or third parties after resale, to the amount of the grand total of our invoice (including VAT) for our receivables – irrespective whether the purchased goods were sold separately from or under the agreement. The buyer shall remain authorised to collect this receivable also after the cession. Our authority to collect this receivable ourselves shall remain unaffected thereby. We undertake, however, not to collect the receivable, provided the buyer timeously meets his payment obligations from the proceeds accruing to him and, in particular, has not filed for insolvency proceedings or bankruptcy. In the event of the above, however, we may demand that the buyer inform us of the ceded receivables and the debtors, provide us with all the information required for collection, submit the relevant documentation and notify the debtors (third parties) of the cessation.

5. The processing or alteration of the purchased goods by the buyer shall always be on our behalf. Should the purchased goods be processed together with other objects which are not ours, we shall have co-ownership of the new object in the ratio of the value of the purchased goods (grand total of invoice, including VAT) to the other processed objects at the time of processing. The conditions applicable to the conditionally supplied purchased object shall also be applicable to the object created through processing.

6. Should the purchased goods be inseparably mixed with other objects which are not ours, we shall have co-ownership of the new object in the ratio of the value of the purchased goods (grand total of invoice, including VAT) to the other mixed objects at the time of mixing. If mixing is in a manner which renders the buyer's object the principal object, it shall be agreed that the buyer grants us pro rata co-ownership. The buyer shall keep the thus created sole owned or co-owned object safe on our behalf.

7. We undertake to release the securities ceded to us on request of the buyer if the realisable value of our securities exceeds the receivables to be secured by more than 10%; we shall have the right to choose the securities to be released.

§ 9 Place of jurisdiction and performance

1. Our business location shall be the place of jurisdiction if the buyer is a businessman; we shall, however, have the right to sue the buyer in the court where he is domiciled.

2. The laws of the Federal Republic of Germany shall be applicable; the UN Convention on Contracts for the International Sale of Goods is excluded.

3. Supplemental hereto, the ECE regulations of the International Chamber of Commerce in Paris, in their valid version, are applicable to cross-border transactions.

4. Our business location shall be the place of performance unless specified otherwise in the order confirmation.