

General terms of delivery and payment (for traders)

§ 1 Preface

For all our services, the following terms apply exclusively. We are not bound by any conditions of the customer, even if they have not been expressly rejected.

§ 2 Offers

2.1. Our offers are subject to change. Orders are only deemed to have been accepted when they have been confirmed by us in writing. The scope of supply is based on our written confirmation.

2.2 All property rights and copyrights to images, drawings, cost estimates and other documents and samples are reserved by us and may not be copied or communicated to third persons without our written consent.

§ 3 Prices, payment, delivery

3.1. Unless otherwise agreed, our prices are ex works, loading included, packing excluded.

3.2. Our prices are excluding VAT, which is charged at the valid rate on the date of invoice.

3.3. Cash discounts are only granted following special written permission.

3.4. The invoice amount is payable without delay.

3.5. The customer may only offset claims against us or exercise a right of retention if these claims are uncontested or legally established.

§ 4 Delivery period

4.1. The delivery period begins when order confirmation is sent, however not before we have received all documents, approvals and releases to be obtained by the customer. The delivery period is deemed to have been observed if we have given notification of readiness for dispatch before this period and the delivered goods have left our works, or, if delivered directly, have left the works of the manufacturer before expiry of this period.

4.2. The delivery period is extended accordingly in the event of labour disputes, in particular strikes, lock-outs and other unexpected hindrance over which we have no influence if such hindrance verifiably affects completion or delivery of the goods to be delivered. This also applies if the circumstances have occurred at our suppliers. We are also not responsible for the hindrance if it has occurred during an existing delay in delivery. We will inform the customer of any such hindrance without delay.

4.3. If the customer suffers damages due to a delay for which we are responsible, he is entitled to demand compensation, subject to the exclusion of further claims. Compensation amounts to 0.5% for every full week, limited however to 5% of the value of the part of our service which cannot be used in time or as agreed contractually as a result of the delay. This excludes cases of verifiable intent or gross negligence, culpable violation of an essential contractual obligation or if we are specifically liable as a result of loss of life, physical injury or illness. The burden of proof remains unaffected. The supplier retains the right to prove that no loss has been incurred, or that the damage is considerably less than the fixed sum.

4.4. If the customer specifies a reasonable second time limit for our service, after we have already defaulted, and this time limit expires without success, the customer is obliged to state at our request within a reasonable time limit whether he demands supplementary performance, withdraws from the contract and / or demands compensation in lieu of the service.

The customer has the right to demand compensation only in the event of intent or gross negligence, considerable violation of obligation or culpable violation of an essential contractual obligation, or if we are specifically liable as a result of loss of life, physical injury or illness. In the event of culpable violation of an essential contractual obligation, we are liable only to compensate for damage which is contractually typical and could reasonably have been foreseen.

4.5. Observance of delivery periods is subject to the fulfilment of contractual obligations by the customer.

4.6. If the customer requests shipment to be delayed,, we will charge storage costs, beginning one month after notification of readiness for delivery. Storage in our plant costs 1/2 % of the invoice amount per month. After we have specified a reasonable second time limit for the customer and this period has expired, we have the right to dispose freely of the stored goods and can deliver to the customer within a reasonable period of delay. The contractual parties retain the right to verification and to claim higher or lower storage costs.

4.7. If the customer delays acceptance of the ordered goods, we have the right to withdraw from the contract after a second reasonable time limit and to demand compensation of 15% of the order value. We reserve the right to claim for higher losses. The customer reserves the right to prove that lower losses have been incurred.

§ 5 Transfer of risk

5.1. Risk is transferred to the customer at the latest when the goods are shipped, also in the case of partial deliveries, or if we have accepted other services, such as shipping costs or delivery and assembly. If requested by the customer, we will insure the delivered goods at his expense.

5.2. If delivery is delayed due to reasons for which the customer is responsible, risk is transferred to the customer at the time of readiness for delivery. However, we are obliged to insure the goods, if requested by the customer, to the extent he requests at his expense.

5.3. Partial deliveries are allowed.

§ 6 Retention of title

The following collateral shall be granted to us until full payment of all receivables (also account balances) and contingent liabilities to which we are entitled from the customer now and in future.

6.1. The delivered goods remain our property until the customer has paid all amounts owed to us from business transactions.

6.2. We allow the customer to re-sell the delivered goods in the course of correct business transactions. However, this permission may be withdrawn at any time. We do not allow the customer to do so where the liabilities resulting from the resale have already been assigned to others, or where they cannot be assigned to us for other reasons. If the customer suspends payment, he loses the right to re-sell our goods.

6.3. The customer hereby assigns his claims from the resale, rental or any other economically similar disposal to us by way of collateral, regardless of whether goods subject to retention of title were disposed of together with or without other goods.

6.4. Until revoked by us, the customer has the right to accept assigned claims, but has to transfer to us the accepted amounts immediately, where our claims are payable.

6.5. Even if not expressly revoked by us, the right to accept claims expires if the customer does not fulfil his obligations, particularly if he suspends payment, or if he is on the verge of insolvency or if composition or insolvency proceedings are instituted. On request, the customer has to provide us with the necessary information on the assigned claims and relevant documentation and has to inform the debtor of the assignment.

6.6. The customer is not entitled to pledge delivered goods or assign them as security. He has to inform us immediately in the case of distraint, confiscation or other instructions by third persons. The costs of interventions are borne by the customer.

6.7. As long as retention of title exists, processing and machining of the delivered goods and combination with other goods is carried out for us, without any obligation on our part and without our ownership being relinquished.

6.8. In the case of processing, composition, mixture or co-mingling of the goods subject to retention of title with other goods that do not belong to the customer, we have proportional ownership of the new goods in accordance with the invoice value of the goods subject to retention at the time of processing, composition, mixture or co-mingling.

6.9. If the customer is the exclusive owner of the new goods, we hereby agree that the customer grants us proportional ownership of the new goods in accordance with the invoice value of the processed, or composed, mixed or co-mingled goods subject to retention. He will store them for us free of charge.

6.10. If the customer re-sells the goods subject to retention together with other goods immediately, with or without processing, composition, mixture or co-mingling, the agreed assignment mentioned above is made only for the invoice amount of the goods subject to retention which were sold together with the other goods.

6.11. We undertake to release the collateral due to us to the customer in so far as it exceeds the value of our claims by 20%.

6.12. We have the right to demand restitution of the goods subject to retention if the customer fails to fulfil his payment obligation within a specified time or by a certain time limit. The demand for restitution of the goods simultaneously represents withdrawal from the contract.

§ 7 Material defects

7.1. If we are responsible for material defects, we have the right to remedy such defects by free reworking or replacement delivery at our discretion. Replaced parts are our property. If we are unwilling or unable to remedy the material defects, particularly if remedy causes delay for an unreasonable period of time due to reasons for which we are responsible, or if at least two attempts at remedy have failed, the customer has the right to withdraw from the contract, or to demand a reduction in price, irrespective of any claims for compensation as described in paragraph 9.

7.2. If the customer is entitled to assert rights due to material defects at his discretion he is to state at our request within a reasonable period of time whether he requires remedy of the defect or prefers to withdraw from the contract, or demands a reduction in price and / or compensation in lieu of the service.

7.3. We will bear the costs required to remedy the defects, in particular transport, travel, labour and material costs. We do not bear costs if expenses are higher because the delivered goods have subsequently been moved to a location other than the registered office of the customer and if transport does not comply with the intended use.

7.4. The customer is obliged to examine the delivered goods immediately after receipt and inform us immediately in writing of any defects detected.

7.5. Claims concerning material defects lapse after 12 months. This limit does not apply to claims described in § 438, 1 no. 2 BGB (buildings and objects for buildings), § 479, 1 BGB (right of recourse) and § 634 a, 1 no. 2 BGB (construction defects). These are subject to longer time limits, as are contracts which are subject to VOB/B (German construction contract procedures) as a whole .

7.6. No rights to claim material defects exist if they are due to the following: inappropriate or incorrect use, defective installation or commissioning by the customer or third persons, natural wear, incorrect or negligent treatment, unsuitable equipment, unsuitable operating or replacement materials, defective construction work, chemical, electro-chemical or electrical influences for which we are not responsible, and only insignificant differences in the agreed properties and insignificant impairment of operability.

7.7. The customer may only claim right to recourse according to § 478 BGB against us if no other agreements have been concluded with the consumer beyond the statutory material defect rights, see paragraph 7.3.

7.8. For our liability, see paragraph 9. Further claims concerning material defects are excluded.

§ 8 Installation

8.1. Installation has to be paid for separately, unless otherwise agreed, see also paragraph 3. If installation or commissioning is delayed through no fault of ours, the customer has to pay all costs for delays and additional business trips.

8.2. For installation defects and liability, see paras. 7 and 9.

§ 9 Liability

9.1. For further claims, in cases of slight negligence, our obligations are limited to the compensation of our liability insurance. This also applies to the personal liability of our employees, workers, staff members, representatives and vicarious agents. On request, we are willing to allow the customer to inspect our policy. These limits of liability also apply to damage which is not incurred directly on the delivered goods unless the delivered goods do not have the properties which we have expressly assured and if the purpose of our assurance was to protect the customer against damages that do not occur on the delivered goods, or if the defect was fraudulently concealed.

9.2. Further claims for compensation and reimbursement of expenses of the customer are excluded. This does not apply to inalienable claims according to the product liability law, in cases of intent or gross negligence, loss of life, physical injury or illness, or culpable violation of an essential contractual obligation. In the case of culpable violation of an essential contractual obligation, we are only liable for the foreseeable loss that is typical for the contract if there is no intent or gross negligence, or loss of life, physical injury or illness. Paragraph no. 9 does not constitute burden of proof to the disadvantage of the customer.

9.3. If - according to this paragraph – the customer has the right to claim compensation, such claims lapse after the period of time applicable to material defects (see paragraph 7.5.).

§ 10 Place of performance and place of jurisdiction

10.1. The place of performance for all contractual obligations is the registered office of our company.

10.2. For all disputes, if the customer is a merchant, a legal entity under public law or a special fund under public law, the place of jurisdiction is the court responsible for the registered office of our company, Riedlingen. We also have the right to take legal action at the court responsible for the registered office of the customer.

10.3. German law applies exclusively for all mutual legal relations. International commercial law is excluded.

§ 11 Validity

If individual provisions of this contract should be totally or partly ineffective, this does not affect the validity of the remaining contract. In place of the ineffective provision, an appropriate provision is to apply which most closely reflects the intention of the invalid provision.

§ 12 Storage / property

Material provided by us remains our property. It has to be stored separately and can be used only for our orders. The supplier is liable for reduction in value or loss, regardless of fault. The goods produced with material provided by us are our property in their respective state of manufacture. The supplier stores these goods for us; the purchase price includes storage costs of goods and materials.

§ 13 Trade secrets

The supplier is obliged to treat our orders and all corresponding commercial and technical details as a trade secret unless it is public knowledge.

§ 14 Withdrawal

If the economical and financial conditions of the supplier significantly change for the worse, in particular if legal composition or insolvency proceedings are instituted, we have the right to withdraw from the contract if it appears that these conditions are likely to compromise fulfilment of the contract. Accepting partial delivery and partial services under these above-mentioned conditions does not affect the right to fulfil the contract.

§ 15 General conditions

1. Should any clause of this contract be or become invalid or ineffective/unenforceable, the other clauses remain effective/enforceable. The parties are obliged to replace an ineffective/unenforceable clause with by an other valid one, which corresponds most closely to that is in the economic purpose/sense of the replaced clause, and corresponds most closely that comes closest to what the parties intended. Ineffectiveness is excluded/Excluded is unenforceability if §§ 305 - 310 BGB (German civil code) are violated. In these cases, the legal requirements/arrangements are applied, if it isn't demanded an additional contract interpretation is not requested to replace the to fill the omission.

2. German law applies for right is applied for all legal relations between the supplier and us, also if the registered office of his company domicile is abroad, excluding international laws for the sale acquisition of movable goods.
3. The place of performance execution for delivery is the receiving plant, and for payment the administration of our company.
4. If the supplier is a registered trader or a legal entity under public law person of public right, then place of jurisdiction venue is the registered office domicile of our company, for all disputes resulting from this contract, including actions on of a bills of exchange.

Date: 03.07.2009