

General Terms and Conditions of Delivery and Payment

I. Delivery

1. Only our Terms and Conditions of Delivery and Payment to which the Buyer expressly agrees upon placing an order shall apply. This shall also apply to future transactions, even in cases where no express reference to the Terms and Conditions of Delivery and Payment is made, yet the Orderer has received them with our acknowledgement of an order. Our Terms and Conditions of Delivery and Payment shall also apply exclusively in cases where the order placed is contrary to our Terms and Conditions, even if we do not raise any objection. Deviations shall therefore only apply if we have recognized them expressly in writing.
2. All offers are subject to change and non-binding.
3. The Buyer shall be bound by his offer for a period of 3 weeks. Within this period, we shall state whether or not we accept the order. This acceptance shall also be determinable from the immediate delivery of the goods.
4. Supplements and representations of any kind, even by our sales employees and representatives shall require written confirmation by us in order to become effective.
5. Modifications of the Buyer can only be considered by us within 7 days of the date of the contractual offer and only up to delivery or dispatch of the goods.
6. Stated delivery times and dates can be exceeded by us by a maximum of 3 weeks without any rights being derived therefrom by the Buyer, unless we have given the Buyer a written undertaking, in which the delivery date or the delivery date is referred to as binding. Delivery periods shall begin on the date of acceptance of the contract. For events of force majeure or any other circumstances beyond our control, which make the delivery unpractical or impossible, whether they affect us, a pre- or sub-suppliers, the delivery times shall be extended by the duration of the delay. After setting a reasonable deadline for delivery, the Buyer shall be permitted to withdraw from the unfulfilled part of the contract. Claims for damages by the Buyer shall be excluded to the extent permitted by law.
7. Our prices shall be ex works or ex warehouse of one of our suppliers.
8. For calculation, the prices valid on the day of delivery apply. If, after conclusion of the contract, freight fees, details such as customs duties, taxes and charges are implemented or raised, we shall be entitled to increase the price accordingly. This shall only apply to business relationships with non-traders if it is a continuing obligation, or if the delivery or service to be provided by us is not until after the expiry of 4 months.
9. If supplied goods are withdrawn by us without a legal obligation, we shall be permitted to charge the Buyer up to 15% of the invoice value as reasonable compensation costs.
10. We shall only be able to guarantee a color match if the parts are ordered at the same time. For color variations which are commercially available we shall not assume any guarantee with reorders or supplements.
11. Upon passing of the purchase item to the forwarding agent or carrier and at the latest upon departure from the warehouse or the warehouse of our supplier the risk shall pass to the Buyer. This shall also apply if the goods have been reported to the Buyer as ready for shipment but have not yet been retrieved by him.

II. Place of jurisdiction and fulfillment

1. The place of fulfillment for all obligations under the contract shall be the place of business of the Seller
2. The place of jurisdiction in all cases regardless of the severity of the matter in dispute, also for draft and check matters shall for both parties be the District Court responsible for the location of the Seller, insofar as the parties are full merchants.

III. Methods of payment

1. Invoices shall be payable net cash within 14 days of the invoice date, unless otherwise agreed. Invoices up to €100.00 net value shall be payable in net cash immediately plus a surcharge for small quantities of €9.00 (€15.00 for foreign orders under €500.00 net value). After the expiration of 30 days after the invoice date the Buyer shall be deemed to be in default. From then on, we shall be entitled to charge interest at the respective bank rates for overdrafts, at least interest in the amount of 5% above the base rate of the European Central Bank. The assertion of further damages shall remain reserved.
2. Rediscountable taxed bills with a maturity of not more than 90 days shall be accepted as payment on the express prior agreement by us.
3. All receivables shall become due immediately, irrespective of the due date of received and credited bills if the Buyer does not pay an invoice amount despite three reminders or if or we become aware of circumstances that reduce the creditworthiness of the Buyer. Without prejudice to further legal rights, we shall also be entitled to make outstanding deliveries only against advance payment or to demand securities of our choice, or to withdraw from the contract after a reasonable grace period or to claim damages for non-fulfillment.
4. With our claim against any claims of the Buyer we shall irrespective of the legal basis be entitled to offset even if the mutual claims are due at different times.
5. The withholding of payments or offsetting of potential disputed and not legally established counterclaims of the Buyer shall not be permitted. If the Buyer is not a businessman he shall have a right of retention insofar as it is based upon the same legal relationship.
6. Partial deliveries shall be billed immediately and are each payable individually, regardless of the completion status of the total delivery.

IV. Retention of title

1. All goods supplied shall remain our property (goods subject to retention of title) until such time as all claims have been settled, notwithstanding legal considerations and including future or contingent claims resulting from contracts concluded at the same time or contracts concluded at a later date. This shall also apply when payments are to be made for specific claims. The reserved ownership shall be security for our current account claims. Payments by bills of exchange shall only be deemed payment if the bill of exchange has been honored by the Drawee and we have thereby been exempt from bill liability, so that the agreed retention of title shall continue until the payment of the bill.
2. The Buyer shall only be entitled to sell the goods subject to retention of title in the normal course of business at his standard business conditions and as long as he is not in default, provided that he has agreed on a retention of title with his customer and that the outstanding claims of resale pursuant to Items 3 to 5 are transferred to us as payment. The resale shall be equal in status to the installation in or on buildings.
3. The Buyer's claims from the resale of the goods subject to retention of title shall hereby be assigned to us. Should the goods subject to retention of title be resold jointly with other goods not originating from us, the amount deemed assigned to us shall only equal the invoice value of the respective reserved goods sold. The assigned sums due shall serve as security to the same extent as the goods subject to retention of title.
4. The Buyer shall be entitled to collect the assigned claims from the resale up to our revocation which is possible at all times. Our right of revocation will only be asserted if the Buyer does not comply with the Terms of Payment or if we become aware of circumstances which reduce the creditworthiness of the Buyer. The Buyer shall not be entitled in any way to assignment of the claim. At our request, the customer shall be obliged to inform his Buyer of the assignment to hand over to us the information and documents required to assert the claim. If we claim retention of title, this shall only be understood as rescind of the contract if expressly stated so by us in writing. The right of ownership of the Buyer to the goods subject to retention of title ceases to exist if his obligations in respect of this or another contract are not fulfilled. We shall then have the right, without giving a period of grace or a declaration of cancellation, to enter the Buyer's premises and to take possession of the goods subject to retention of title and to sell them by private sale or public auction at the highest price possible without prejudice to the payment obligations or any other duties of the Buyer. After deduction of expenses, the proceeds shall be credited to the Buyer against the amounts he owes. Any excess shall be paid over to him.
5. The retention of title of the Seller shall be conditional to the extent that upon full payment of his claims from the business relationship ownership of the goods shall then without further ado pass to the Buyer and the assigned claims shall be due to the Buyer. The Seller shall be obligated to release his securities insofar as the value of these securities is 15% higher than the value of all claims to be secured. If the goods under retention of title or the assigned claims are seized or confiscated the Buyer shall be obliged to provisionally exercise the rights of the Supplier and to notify him of this. The Buyer shall bear the costs of an intervention and shall be obliged to pay these costs in advance upon request of the Supplier.

V. Defects and Liability

1. The Buyer shall be obligated to note damages or shortages immediately on the delivery slip upon delivery of the goods and to get a receipt acknowledging this from the carrier. Unacknowledged damage or shortages, even conditional acceptance, shall not be recognized by the Seller or by insurers. Paint grazes and scrapes that are never completely avoidable when transporting shall not be considered as grounds for complaint.
2. Products shall be supplied with a permanently attached nameplate of the Supplier. A claim for elimination or removal of the company's shield shall only be possible if expressly agreed in the contract.
3. Other notifications of defect must be raised immediately with an exact description and received at the Supplier within no later than 10 days after receipt of the goods by registered post. If the notification of defects are recognized by the Supplier as authorized or judicially determined to be justified, the Supplier shall have the choice either to repair the defective goods within a period of 4 weeks or to deliver to the Buyer upon return of the defective goods or to provide an appropriate discount to the Buyer to compensate for the defect. Further claims of the Buyer, particularly for compensation for damages not occurring on the item supplied itself shall be excluded to the extent permitted by law.
4. If we culpably fail to fulfill our obligatory inspection regarding the defect by amendment or by supplying a new product, the Buyer shall be entitled to withdraw from the contract after a reasonable period of grace period unless he has not complied with the obligations towards us within the legal scope.
5. Claims not expressly granted in these conditions, in particular claims for damages of the Buyer shall in so far as is permissible be excluded, unless they are based on an intentional or grossly negligent breach of contract by us or one of our agents.
6. Any claims against us – based on whatever legal reason – shall expire no later than six months after the transfer of risk to the Buyer.
7. If the Buyer is held liable after resale of the goods delivered by the Seller pursuant to §§ 478 f. of the BGB (German Civil Code) because of defects in the goods, the recourse pursuant to §§ 478 f. of the BGB shall only be permitted if the Buyer has immediately notified the Seller of his claim, i.e. within ten days, and given the Seller the opportunity to exercise the replacement supply right. The Buyer shall not be permitted to assert claims for damages in the way of recourse in accordance with §§ 478 f. of the BGB

VI

Should individual provisions of these Terms and Conditions be or become invalid, this shall not affect the validity of the remaining provisions. The invalid clauses shall be replaced by a regulation which meets the legal demands and comes closest to the economic intention of the invalid condition.

VII. Applicable law

For the entire legal relationship between Seller and Buyer, German law shall be applicable under exclusion of UN commercial law.