

I. Scope/conclusion of contract

1. These General Terms and Conditions of Sale shall apply to all – including future – contracts with entrepreneurs, public legal entities and special funds under public law regarding supplies and other services, including the delivery of non-fungible goods. In cases of drop shipments, the additional conditions set forth in the commissioned supplier's price list and shipping instructions shall apply. The buyer's conditions of purchase shall not be recognized, even if they are not expressly contradicted by us upon receipt.
2. Our offers shall be considered non-binding. Verbal agreements, promises, assurances and guarantees made by our employees in connection with the conclusion of the contract shall only be binding upon our written confirmation. The written form by way of fax transmission or e-mail shall also be deemed sufficient.
3. In cases of doubt, the latest version of Incoterms shall apply with regard to the interpretation of commercial clauses.

II. Prices

1. Unless otherwise agreed, the prices and conditions set in our price list and valid at the time of conclusion of the contract shall apply. Goods shall be invoiced on a "gross for net" basis.
2. In cases of drop shipments, we shall be entitled to increase the agreed price to the extent that our supplier increases relevant prices before delivery of goods. This provision shall only apply if delivery is performed more than three months after the conclusion of the contract. The buyer shall be permitted to withdraw from the contract in such cases. The declaration of withdrawal from the contract must be sent to us immediately upon receipt of our notice of increase.
3. If import transaction prices increase due to regulatory action, in particular the introduction or renewal of anti-dumping and/or countervailing duties, we shall be entitled to the adjustment of agreed prices in the same amount.

III. Settlement and set-off

1. Unless otherwise agreed or stated in our invoices, the purchase price shall be due immediately upon delivery without deduction of cash discount and shall be paid in such a manner that we are able to draw on the proceeds on the day on which payment is due. Payment transaction costs shall be borne by the buyer.
2. The buyer shall only be entitled to a right of retention and authorised to offset any counterclaims if his claims are undisputed or have been legally established, they are based on the same contractual relationship with the buyer and/or would entitle the buyer to refuse performance under § 320 BGB (German Civil Code).
3. Should payment terms not be adhered to, we reserve the right to charge interest amounting to 9 percentage points above the base rate, unless higher interest rates have been agreed. The right to claim further damages shall remain reserved.
4. Should, after conclusion of the contract, it become evident that our entitlement to payment is at risk due to the buyer's inability to pay, or if the buyer is in default of a substantial amount or if there are other circumstances that indicate a significant decline in the buyer's ability to pay after conclusion of the contract (e.g., cancellation or reduction of the credit limit granted by the commercial credit insurance commissioned by us), we shall be entitled to the rights pursuant to § 321 BGB. In such cases, we shall also have the right to make payable immediately any receivables from the ongoing business relationship with the customer, even if they are not yet due.
5. Any agreed cash discount shall always only refer to the amount invoiced, excluding freight, and shall require the complete settlement of all of the buyer's due liabilities at the time of the discounting. Unless otherwise agreed, discount terms shall commence from the invoice date.

IV. Execution of deliveries, delivery times and dates

1. Our obligation to deliver shall be subject to correct and timely deliveries being made to us (and, in cases of import business, it shall be additionally subject to the receipt of control documents and import licences, insofar as these papers are required for the respective imports), unless we are at fault for incorrect or untimely deliveries being made to us.

2. Information regarding delivery times shall be considered approximate. Delivery periods shall commence with the date of our order confirmation and shall only be valid on the condition of timely clarification of details on the part of the buyer, such as provision of all official certificates, presentation of letters of credit and guarantees or remittance of down payments.
3. Delivery times and dates shall be considered met if and insofar as the goods have been despatched from the plant or warehouse as agreed. They shall be considered observed upon notification of readiness for despatch if the goods cannot be sent in time through no fault on our part.
4. In the event of a delay in delivery, the buyer shall be entitled to set a reasonable grace period and, after expiration of such period, withdraw from the contract, provided the contract has not been fulfilled yet. In such cases, claims for damages shall be governed by Section XI of these conditions.
5. Delivery periods shall be extended to a reasonable extent in cases of industrial disputes, in particular strikes and lockouts, as well as in cases of unforeseeable obstacles that are beyond our control, insofar as such obstacles are proved to have a significant impact on the production or delivery of the item to be supplied. This shall also apply if such circumstances affect our suppliers. We shall immediately notify the buyer of such circumstances. These provisions shall accordingly apply to delivery dates. Should such circumstances make the performance of the contract unreasonable for one of the parties, such party shall have the right to withdraw from the contract.

V. Retention of title

1. All delivered goods shall remain our property (goods subject to retention of title) until the settlement of all claims, in particular the respective balance claims, which we are entitled to within the framework of the business relationship (balance reservation). This shall also apply to future and conditional claims, e.g., from acceptor bills of exchange and even when payments are made on specially designated claims. This balance reservation shall be definitively terminated by the settlement of all claims outstanding at the time of payment and covered by this balance reservation.
2. As a manufacturer, the machining and processing of goods subject to retention of title shall be carried out within the meaning of § 950 BGB, without obligation to us. The machined and processed goods shall be considered goods subject to retention of title within the meaning of Clause 1 above. With the processing, combining and blending of goods subject to retention of title with the buyer's other goods, we shall be entitled to co-ownership of the new goods in proportion to the invoice value of the goods subject to retention of title to the invoice value of the other used goods. Should our ownership be dissolved due to combining or blending, the buyer shall hereby assign to us the property rights to which he is entitled in the new stock or item to the extent of the invoice value of the goods subject to retention of title and shall store them for us free of charge. Our co-ownership rights shall be considered as goods subject to retention of title within the meaning of Clause 1 above.
3. The buyer shall only be permitted to sell the goods subject to retention of title within the normal course of business, under normal terms and conditions of business and as long as he is not in arrears with payments to us, provided that the claims from the resale pass to us, pursuant to Clauses 4 to 6. He shall not be entitled to other dispositions concerning goods subject to retention of title.
4. Any claims arising from the resale of goods subject to retention of title, together with all the securities that the buyer acquires for the claim, shall be assigned to us. They shall serve as collateral to the same extent as the goods subject to retention of title. If the goods subject to retention of title are sold by the buyer together with other goods not sold by us, then the claim from the resale shall be assigned to us at the ratio of the invoice value of the goods subject to retention of title to the invoice value of the other goods sold.
5. The buyer shall be entitled to collect claims from the resale. This authorization to collect shall lapse when revoked by us, but, in any case, at the latest in the event of a default in payment, non-payment of a bill of exchange or the institution of insolvency proceedings. Our right of revocation shall only be

asserted if, after conclusion of the contract, it becomes evident that our claim for payment arising from this or other contracts with the buyer is at risk due to the buyer's inability to pay. Upon our request, the buyer shall be obliged to immediately notify his customers of the assignment to us and to submit those documents that are required for collection to us.

6. The buyer shall immediately notify us of any seizure or other impairment by third parties. The buyer shall bear all costs incurred for the cancellation of access to or the return transport of goods subject to retention of title to the extent to which they are not compensated for by third parties.

7. Should the buyer default in payment or should he fail to honour a bill of exchange upon maturity, we shall be entitled to repossess the goods subject to retention of title after a reasonable grace period, to enter the buyer's premises for this purpose and to sell the goods subject to retention of title, setting off any payment received against the purchase price. The same shall apply should it become evident, after conclusion of the contract, that our claim for payment arising from this or other contracts with the buyer is at risk due to the buyer's inability to pay. Repossession shall not constitute withdrawal from the contract. The provisions of the insolvency code shall remain unaffected.

8. If the invoice value of existing securities exceeds the secured claims by more than 50 percent, we shall be obliged, upon the buyer's request, to release excess securities at our discretion.

VI. Weights

1. Weights shall be determined by weighing carried out by us or our supplier. The weighing slip shall serve as proof of weight. To the extent permitted by law, weights can be determined without weighing pursuant to standards. We shall be entitled to determine weights without weighing pursuant to standard (theoretical) plus 21/2 percent (commercial weight).

2. The number of units, bundles, etc. detailed on the despatch note are not binding for goods calculated by weight. Unless individual weighing is customarily carried out, the total weight of the shipment shall be applicable in each case. Any deviation from calculatory individual weights shall be proportionally allocated to such weights.

VII. Inspection certificates/declaration of performance and CE mark/acceptance

1. The delivery of inspection certificates ("Certificates") pursuant to EN 10204 shall require a written agreement. The same shall apply to performance declarations and CE markings pursuant to BauProdVO (Construction Products Regulation). The written form by way of fax transmission or e-mail shall be deemed sufficient. We shall be entitled to deliver copies of inspection certificates. In the absence of an express agreement, the fee for inspection certificates shall be based on our price list or the price list of the respective exhibitor (supplier).

2. If acceptance has been agreed, it shall only be carried out at the supplier's plant or our warehouse immediately after notification of readiness has been given. The buyer shall ensure that we are duly authorized to commission the accepting company of his choice on behalf and for account of the buyer or his customers. Unless otherwise agreed, this authorization shall be considered granted when an accepting company is named in the order.

3. The personal and material acceptance costs shall be borne by the buyer. They shall be invoiced by and settled directly with the accepting company.

4. Should the acceptance not be undertaken in a timely manner or incompletely due to no fault of our own, we shall be entitled to complete the delivery without acceptance or to store the goods at the buyer's risk and expense.

VIII. Shipping, transfer of risk, packaging, partial delivery

1. We shall determine the shipping route and means as well as the freight forwarder and carrier.

2. Delivery of goods that have been reported as ready for despatch in accordance with the contract shall be accepted immediately; otherwise, we shall be entitled, after a grace period and at our discretion, to despatch the goods at the buyer's risk and expense or to put the goods into storage and invoice immediately.

3. As soon as the goods have been handed over to a freight forwarder or carrier, but, at the latest, when the goods have left the warehouse or the supplier's plant, the risk shall be transferred to the buyer for all transactions, even in cases of carriage paid or franco domicile delivery. We shall only provide insurance cover upon the buyer's instruction and at his expense. The obligation and cost of unloading shall be assumed by the buyer.

4. The goods shall be delivered unpacked and unprotected against rust. If customary, we shall deliver the goods in packed condition. Packaging as well as protective and/or other auxiliary transport devices shall be provided by us according to our experience and at the buyer's expense. They shall be returned to our warehouse within a reasonable period of time. We shall not assume any costs incurred by the buyer related to return transport or packaging disposal.

5. We shall be entitled to make partial deliveries to a reasonable extent. Industry-standard excess and short deliveries of the contracted quantity shall be permissible. We shall be entitled to exceed or fall short of the arranged delivery quantities to a reasonable extent. The specification of an "approximate" quantity shall entitle us to make deliveries that exceed or fall short of up to 10% of the contracted quantity.

IX. Release orders, successive deliveries

1. In cases of successive delivery orders, we shall be notified of requests for delivery, assortment of goods and approximately identical monthly quantities; otherwise, we shall be entitled to make determinations ourselves and at our own discretion.

2. Should the individual deliveries exceed the total contracted quantity, we shall be entitled, but not obliged, to supply the excess quantity. Excess quantities shall be calculated at the prices valid at the time of request and/or delivery.

X. Liability for material defects

1. Interior and exterior properties of the goods, in particular, grades, types, and measurements, shall be determined on the basis of the agreed DIN and EN standards, or, if no standards have been agreed upon, on those standards applicable at the time of conclusion of the contract. Should no relevant standards be applicable, the properties shall be determined on the basis of commercial custom. Reference to standards and comparable regulations, to inspection certificates pursuant to EN 10204 or similar certificates, as well as information relating to grades, types, measurements, weights, and application of the goods shall not constitute assurances or guarantees. The same shall apply to declarations of conformity and corresponding markings, e.g., CE mark.

2. The inspection of goods and reporting of deficiencies shall be subject to legal regulations with the proviso that the obligation to inspect the goods upon receipt shall extend to inspection certificates pursuant to or according to EN 10204 and that any defects and inspection certificates must be submitted to us in writing or in written form. If the goods are intended for incorporation or installation in other goods, the buyer must examine the inherent features of the goods that are relevant for the intended purpose prior to such incorporation and must notify us of any defects immediately in writing or in written form.

3. In cases of justified, timely notices of defects, we can, at our discretion, rectify the defect or deliver a defect-free product (supplementary performance). In cases of failure and/or refusal of supplementary performance, the buyer shall be entitled to legal rights.

4. The expenses incurred in relation to the removal of the defective goods and the incorporation or installation of the rectified or new, defect-free product shall only comprise expenses related to the removal and installation of identical goods, incurred on the basis of customary conditions and substantiated by the buyer in a suitable, written format. They shall not include futile expenses incurred by the buyer in reliance on receiving performance.

5. We reserve the right to refuse any costs associated with supplementary performance if they are disproportionate. At the latest, this shall be the case when they exceed a value of 150 percent of the purchase price of goods in defect-free condition.

6. If the buyer does not immediately give us an opportunity to verify defects and, in particular, fails to furnish defective goods or samples immediately upon our request, all claims for material defects under this warranty shall be excluded.

7. In cases of goods sold as downgraded material, the buyer shall not be entitled to any rights, with regard to the specified reasons for downgrading and such defects that would normally be expected. We shall not be liable in cases of defects in goods classified as grade IIa.

8. Our further liability shall be based on Section XI of these conditions. The buyer's rights of recourse pursuant to §§ 478 and 479 BGB shall remain unaffected.

XI. General limitation of liability and statute of limitations

1. In cases of violations of contractual and non-contractual obligations, in particular due to impossibility, delay, culpability in initiating an agreement and tortious acts, we shall be liable – also for our officers and other vicarious agents – only in cases of wilful intent and gross negligence, limited to the typical damage that is foreseeable at the conclusion of the contract. For the rest, our liability shall be excluded, even with regard to defects and consequential damages.

2. These limitations shall not apply to culpable breaches of material contractual obligations, insofar as the achievement of the purpose of the contract is endangered, a culpable cause of damage to life, limb and health has occurred nor even if and to the extent that we have assumed the warranty for the nature of the goods sold, as well as in cases of mandatory liability under the Product Liability Act. The rules concerning the burden of proof shall remain unaffected.

3. Unless otherwise agreed, contractual claims that the buyer incurs against us on occasion and in connection with the delivery of the goods shall expire one year after delivery of the goods. This period shall also apply to goods that are used in accordance with their normal use for a building and have caused its defectiveness, unless this use was agreed in writing. Our liability for deliberate and grossly negligent breaches of duty, culpable causes of damage to life, limb and health as well as the statute of limitations of recourse claims according to §§ 478 and 479 BGB shall remain unaffected.

XII. VAT-free intra-community deliveries

1. In cases of VAT free intra-community deliveries, the buyer shall be obliged to confirm, as evidence of tax-free delivery, the time and place of arrival of the goods in an EU member state (“confirmation of arrival”).

2. If the customer fails to complete such written confirmation of arrival and return it to our office, we shall be entitled to subsequently charge the customer the due German sales tax in full.

XIII. Place of fulfilment, place of jurisdiction and applicable law

1. The place of fulfilment for our deliveries shall be the supply plant in cases of ex-works and our warehouse in all other delivery cases. The place of jurisdiction shall be, at our discretion, the location of our head office or the location of the buyer.

2. All legal relationships between us and the buyer shall be governed by German substantive law in addition to these conditions, in particular the BGB/HGB (German Civil Code/German Commercial Code). The provisions of the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 shall be excluded.