

General terms and conditions

1.0 Supply Contract

- 1.1 These general conditions of sale only apply to contractors (natural persons or legal entities or partnerships having legal status, which upon closing a legal transaction do business in the pursuit of their commercial or independent professional activities, § 14 BGB), legal entities under public law or separate property under public law.
- 1.2 Our offers are subject to confirmation. A supply contract comes into being only through our acceptance of order.
- 1.3 Our conditions of delivery are a constituent part of each supply contract. Alterations of and supplements to this supply contract are only valid with our written consent.
- 1.4 These general conditions of sale are those which are solely applicable, insofar as they have not been modified by means of express written agreement between the parties to the contract. Offer, acceptance of offer, confirmation of order as well as the sale of all products is subject to the present conditions. Any purchaser stipulations which would alter the conditions of the contract will be contradicted; they will only apply to us if we have given these alterations our written consent. These conditions are the basis of every single future purchase transaction and exclude any other agreement whatsoever.
- 1.5 Quantity, quality and description as well as any specification of the goods complies with our offer (if it has been accepted by the purchaser) or the order of the purchaser (if it has been accepted by us). With regard to the exactness of the order, the purchaser carries the responsibility, and the purchaser is responsible to provide us with all of the required information concerning the ordered goods within a reasonable period of time so that the order can be carried out as stipulated.

2.0 Price

- 2.1 The prices hold for deliveries from the works or warehouse, including packing material. The packing material will be charged to the cost price and not taken back. Insofar as we are prepared to deliver the goods to other locations, the purchaser shall carry the costs of transport, packing and insurance.
- 2.2 All prices are understood to be in EURO plus value added tax at the respective legal rate.
- 2.3 We reserve the right, subsequent to punctual notification of the purchaser and prior to delivery of the goods, to raise the price of the goods in such a way as is called for due to general price developments which are beyond our control (like exchange rate fluctuations, currency formalities, customs alterations, clear rise in material and manufacturing costs) or as is necessary due to supplier modifications.

3.0 Delivery and passing of risk

- 3.1 We shall strive to meet delivery deadlines. Information on delivery times refers to departure of the goods from the works and is always non-binding, unless we have expressly agreed to something else with the purchaser. Partial deliveries are admissible.
- 3.2 Acts of God, labor struggles and other events that are no fault of ours, insofar as they have an influence on the production and delivery of the object of delivery, entitle us to reasonably extend the term of delivery. This holds likewise if the aforesaid events arise at a time when we are in delay of delivery.

- 3.3 If damages arise for the purchaser due to a delay in delivery attributable to us, the liability is ours pursuant to legal stipulations. If the delay in delivery is based solely on an insubstantial contractual obligation, the purchaser can assert a lump sum contractual compensation to the maximum amount of 15% of the value of the delivery.
- 3.4 If we find ourselves in delay of delivery, the purchaser is entitled, instead of the claim pursuant to paragraph 3.3, to withdraw from the contract subsequent to expiration of a reasonable extension of time.
- 3.5 The risk devolves to the purchaser at the latest with the dispatch of the object of delivery, also if partial deliveries follow or if we have assumed other services, e.g. free of charge delivery, or if we have assumed the costs of shipment.

4.0 Payment

- 4.1 Payments are to be done within 30 days as of billing date, without any deduction, to the bank named by us; decisive is the date of receipt of payment. A discount will not be granted if the purchaser is in delay of delivery because of other payments or when taking in a bill of exchange. We grant no discount for the remuneration of services rendered.
- 4.2 In the event that the purchaser fails to fulfill his liability to pay on the due date, we are entitled – without giving up any further rights and claims to which we are entitled – at will, to: - cancel the contract or stop further deliveries to the purchaser; or - charge the purchaser interest for the unpaid amount, which runs at 8% p. a. above the respective reference interest rate of the European Central Bank, until final payment has been done in full. The purchaser is entitled to prove that the delay in payment caused no or only slight damages.
- 4.3 Payments are to be done by bank transfers only. The taking in of bills of exchange or checks requires our consent. Payment by means of bills of exchange and checks will not be recognized as fulfillment of the liability to pay. Deliveries abroad are dependent on the opening of an irrevocable/confirmed letter of credit at the bank of the purchaser (or at another bank acceptable to us). In this individual case it is fixed that the opening of a letter of credit is done in agreement with the General Guidelines and Customs for Documentary Letters of Credit, Revision 1993, ICC Publication No. 500.
- 4.4 We are entitled to make cash on delivery deliveries.
- 4.5 If the ability of the purchaser to pay deteriorates subsequent to closing of contract, or if it subsequently comes to our knowledge that reservations exist regarding the ability of the purchaser to pay, we can then demand advance payment or provision of security for all businesses being transacted. If the purchaser is in arrears, all payment demands in existence against the purchaser – including the extended terms – will be immediately due for payment. Legal claims above and beyond that remain unaffected.
- 4.6 The withholding of payments or the setting of payments with any counterclaims by the purchaser is only admissible if the counterclaims are uncontested by us or have been made legally binding.

5.0 Reservation of proprietary rights

- 5.1 We reserve the proprietary rights on all goods delivered by us pending total payment; in this connection, all deliveries are considered as a related delivery transaction.

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5.2 The purchaser may neither pawn nor make over to someone else as security the object of delivery prior to complete payment. In the event of pawning or other intrusions by third parties, we are immediately to be notified in writing, to enable us to press charges pursuant to § 771 ZPO. To the extent that the purchaser fails to meet this obligation, he shall be held liable for damages that have arisen.

5.3 The purchaser has the right to resell the object of delivery through proper business channels. The purchaser cedes to us already now, in the amount of the billed value of the reserved goods, all demands that arise from the resale for the purchaser against his customer or against third parties. The purchaser is authorized to collect these demands also subsequent to the transfer so long as he remains faithful to the contract and no insolvency exists. Our authorization to collect the demands ourselves remains unaffected thereby. We pledge not to collect the demands so long as the purchaser duly fulfills his liability to pay us and no insolvency exists; we can otherwise demand that the purchaser inform us of the ceded demands and their debtor, provide all information necessary for confiscation, hand over all relevant documents and notify the debtors of the cession.

5.4 For the processing or reorganization of reserved goods, also together with other objects not belonging to us, we shall acquire proportional co-ownership of the new entity commensurate with the relationship of its billed value to the value of the new entity at the time of processing. The objects under our co-ownership will be kept by the purchaser without remuneration.

5.5 If the value of the securities existing for us exceed by more than 20 percent the value of the demands to be secured, we are pledged, as far as that goes, to release at the request of the purchaser. The choice of securities to be released is ours.

6.0 Responsibility for defective goods

We are liable for defective deliveries, to the exclusion of further claims, as follows:

6.1 The responsibility for defective goods with respect to new and used articles amounts to 24 months. Purchaser claims for removal of defects are primarily restricted to a claim on subsequent fulfillment, i.e. a demand for touch-up or delivery of a replacement. We have the right to decide for a touch-up or delivery of a replacement. Exchanged parts become our property. In the event of a failed touchup or replacement delivery, the purchaser can demand a reduction or withdraw from the contract. The touch-up is deemed a failure if and insofar as a reasonable deadline imposed on us for touch-up has transpired without results. The prerequisites for exercising the right of rescission are determined pursuant to § 323 BGB.

6.2 We are liable pursuant to legal stipulations insofar as the purchaser asserts claims for damages based on an express promise of guaranty, fraud, intent or gross negligence, including an express promise of guaranty, fraud, intent or gross negligence of our representative or our accessories to fulfillment. We are liable pursuant to legal stipulations insofar as the purchaser asserts claims for damages based on simple negligence, including a simple negligence of our representative or our accessories to fulfillment insofar as this concerns a violation of an essential contractual duty.

Insofar as we are not blamed for any intentional breach of contract, liability is limited to the foreseeable, typical damages that arise. Otherwise liability for damages is excluded; in particular we are not liable for damages that did not arise on the object of delivery, unless it has to do with an injury to life, body and/or health.

6.3 Rebuke because of recognizable defects or complaint because of incomplete or incorrect delivery must be asserted in writing and in accordance with § 377 HGB. Rebuke because of concealed defects must be asserted in the aforesaid manner and in accordance with § 377 HGB.

6.4 We are not liable for defects resulting from circumstances for which we are not responsible. Such circumstances e.g. are the violation of installation or operating regulations, maintenance errors, improper or unsuitable use, faulty or negligent handling, natural wear and tear, as well as improper intrusion by the purchaser or third parties into the object of delivery.

6.5 Rejected parts are to be forwarded to us packed and with closed connections.

6.6 Likewise applicable for warranty claims on a newly delivered part pursuant to paragraph 6.1 are paragraphs 6.0 to 6.5.

7.0 Further stipulations

7.1 We have the right to modify and improve the goods without having to inform the purchaser thereof in advance, insofar as neither the form nor the function is subsequently encumbered or worsened by the modifications or improvements.

7.2 All sales documentation, specifications and price lists are to be treated with strict confidentiality and are not to be made accessible to third parties.

8.0 Place of fulfillment, legal venue and applicable law

8.1 In exclusive force is the law of the Federal Republic of Germany. The United Nations agreement on contracts for the international purchase of goods (CISG) and the provisions of the collision law, which would call for the implementation of another law, are not applicable.

8.2 The place of fulfillment is Bücken. For all disputes arising from the contractual relationship, we, if the purchaser is a businessman, a legal entity in public law or a separate property in public law, are entitled to press charges at the court in Nienburg. We have the right likewise to file for suit at the legal venue of the purchaser or at any other court of law competent in national or international law.

(Last update: June 2009)