



# General sales, delivery and payment conditions

## I. Scope of application

The following sales conditions apply to all contracts concluded between us and the buyer concerning the delivery of goods. These shall also apply to any future business transactions even if these are not expressly agreed. Deviating conditions of the buyer, which we do not explicitly acknowledge, are non-binding, even if we do not expressly object to said conditions. The following sales conditions also apply if we perform the order without reservation while being aware of conflicting or differing terms and conditions of the customer.

## II. Offers and conclusion of contract

Our offers are subject to change and are non-binding unless we have explicitly indicated that said offers are binding.

We retain ownership, copyright and all other protective rights to all diagrams, calculations, drawings and other documentation. The buyer may only assign these to third parties upon our written consent, irrespective of whether we have designated said (intellectual) property as confidential.

## III. Payment terms

1) Our prices apply ex-works without packaging, unless the order confirmation indicated otherwise. Our prices do not include statutory VAT. This will be indicated separately in the invoice to the statutory amount applicable on the day of invoicing.

2) Discount deduction is only permissible if there is a special, written agreement between us and the buyer.

3) In the event of warranty claims or counterclaims being asserted, the buyer is only entitled to offset if the counterclaims are legally established, recognised by us or undisputed.



#### **IV. Delivery and performance times**

1) Delivery dates or deadlines, which have not been explicitly agreed as binding, are exclusively non-binding information. In the event of unforeseen impediments which are outside our influence, the delivery deadline shall be extended as appropriate. Such impediments include force majeure, official measures, or other delays for which we are not responsible concerning the completion of delivery items, interruptions to our operations and the operations of sub-suppliers, as well as delays in the delivery to us of important construction- and raw materials, insofar as it can be demonstrated that these impediments have significantly impacted our ability to complete or ship the delivery object. Such impediments for which we are not responsible will also lead to an appropriate extension to the delivery deadline should we already be in arrears. The delivery period indicated by us only commences once the technical issues have been resolved. The buyer must also properly and promptly meet all the obligations which are incumbent upon them.

2) Should the underlying purchase contract concern a fixed-date transaction within the meaning of § 286 Para. 2 No. 4 BGB (German Civil Code) or § 376 HGB (German Commercial Code), we shall not be liable pursuant to the statutory provisions. The same shall apply if the buyer is entitled to assert cessation of their interest in further performance of the contract as result of a delay in delivery for which we are responsible. In such an event, our liability is restricted to typical, foreseeable damage if the delivery delay has not arisen as a result of an intentional violation of the contract on our part, which shall include any fault of our representatives or vicarious agents.

We are also liable towards the buyer in the event of delivery delays pursuant to the statutory provisions if they are based on an intentional or grossly negligent violation of the contract on our part, which shall include any fault of our representatives or vicarious agents. Our liability is restricted to typical, foreseeable damage if the delivery delay has not arisen as a result of an intentional violation of the contract on our part.

3) In the event that a delivery delay for which we are responsible has arisen from the culpable violation of a contractual obligation whose fulfilment is essential for the due and proper implementation of the contract, and upon whose fulfilment the buyer ought be able to rely (also includes culpable acts of our representatives or vicarious agents), we accept liability in accordance with the statutory provisions on the condition that liability for damages is restricted to foreseeable damage occurring in a typical manner.

4) In all other cases of delivery delays for which we are responsible, the buyer can assert for each full week of delay a claim for lump-sum compensation totalling 3% of the delivery value, however no more than 10% of the delivery value.



5) Further liability for delivery delays for which we are responsible is excluded. Further statutory claims and rights to which the buyer is entitled in addition to their claim for damages due to a delivery delay for which we are responsible remain unaffected.

6) We are entitled to perform partial deliveries and partial services at any time in so far as this can be reasonably expected of the buyer.

We are also liable towards the buyer in the event of delivery delays pursuant to the statutory provisions if they are based on an intentional or grossly negligent violation of the contract on our part, which shall include any fault of our representatives or vicarious agents. Our liability is restricted to typical, foreseeable damage if the delivery delay has not arisen as a result of an intentional violation of the contract on our part.

7) Should the buyer delay acceptance, we shall be entitled to compensation for any damages and additional expenses incurred. The same shall apply if the buyer culpably violates their obligations with respect to cooperation. The risk of accidental deterioration and accidental loss is transferred to the buyer as soon as a delay in acceptance or payment occurs.

## **V. Transfer of risk/shipment/packaging**

1) Loading and shipment shall be performed uninsured at the risk of the buyer.

2) We do not take back transport packaging or any other packaging pursuant to packaging regulations; this excludes pallets.

3) If the shipment is delayed upon request of the buyer, or due to a fault on the buyer's part, we will load the goods at the expense and risk of the buyer. In this case, notice that the goods are ready to be shipped shall be equivalent to the actual despatch of the goods.

4) We can insure the delivery using transportation insurance at the request and expense of the buyer.



## **VI. Warranty/liability**

1) Defect claims of the buyer only exist if the buyer has duly complied with their inspection and complaint obligations owed pursuant to § 377 HGB.

2) For justifiable notices of defect, under exclusion of the rights of the buyer to rescind the contract or lower the purchasing price (reduction), we are obliged to undertake subsequent performance unless we are entitled to refuse subsequent performance based on the statutory obligations. The buyer must grant us a reasonable grace period for subsequent performance. Subsequent performance can either involve rectification of the defect (subsequent improvement) or delivery of new goods and is at the discretion of the buyer. In the event of defect rectification, we will assume the necessary costs unless these have been increased due to the contractual object being located at a site other than the place of fulfilment. Should subsequent performance fail, the buyer can either choose the lower the purchase price (reduction) or declare their withdrawal from the contract. Subsequent performance shall be deemed to have failed following the second fruitless attempt, unless further subsequent improvement attempts are appropriate and reasonable for the buyer due to the nature of the contractual object. Claims for damages due to a defect in line with the following conditions can only be asserted by the buyer once subsequent performance has failed. The right of the buyer to assert further claims for damages in line with the following conditions remains unaffected hereby.

3) Warranty claims of the buyer expire one year after delivery of the goods to the buyer, unless we have concealed the defect maliciously; in such a case, the statutory provisions apply.

4) We are liable - irrespective of the preceding and following liability restrictions - as per the statutory provisions for injury to life, body and health based on a negligent or intentional violation of obligations on our part, or the part of our legal representatives or vicarious agents, as well as for damage which is included within liability as per the product liability act (Produkthaftungsgesetz). We assume liability in accordance with the statutory provisions for damage which is not included within Section 1 and which is based on intentional or grossly negligent contractual violations, as well as malicious acts on our part or that of our legal representatives or vicarious agents.

In such an event, however, liability for damages is restricted to typical, foreseeable damage unless we, our legal representative or our vicarious agents have acted intentionally. Should we have granted a quality or durability guarantee for the goods or parts thereof, we shall be liable to the extent of said guarantee. For damages resulting from the lack of the guaranteed quality or durability but which do not directly affect the goods, we shall only be liable in so far as the risk of such damage is clearly covered by the quality/durability guarantee.



5) We are also liable for damages caused by a simple, negligent violation of our contractual obligations whose fulfilment is essential for the due and proper implementation of the contract, and upon whose fulfilment the buyer ought be able to rely. However, we are only liable in so far as the damage is typically associated with the contract and is foreseeable.

6) Further liability is excluded irrespective of the legal nature of the claim made; this particularly applies for claims under tort or claims for compensation of fruitless expenses instead of performance. If our liability is excluded or limited, this shall also apply to personal liability on the part of our staff, employees, colleagues, representatives and vicarious agents.

7) Claims for damages made by the buyer due to defects expire one year after delivery of the goods. If we, our legal representatives or vicarious agents are responsible for injury to life, body or health, or if we or our legal representatives have acted intentionally or with gross negligence, or if our simple vicarious agents have acted intentionally, the statutory limitation periods for claims for damages by the buyer shall apply.

## **VII. Retention of title**

1) The delivered goods (reserved goods) remain our property until all accounts receivable and all claims - including the settlement of all outstanding current account balances - to which we are entitled against the buyer now or in the future have been satisfied. Should the buyer act contrary to the contract, e.g. delay in payment, we shall be entitled to take possession of the reserved goods after having set a suitable deadline. If we take possession of the reserved goods, this shall constitute a withdrawal from the contract. If we seize the reserved goods, this shall constitute a withdrawal from the contract. We shall also be entitled to utilise the reserved goods after taking possession thereof. After deducting a reasonable amount for the utilisation costs, the proceeds gained from utilising the goods shall be offset against the sums owed to us by the buyer.

2) The buyer is obliged to treat the reserved goods with care and to insure these against damage arising from fire, water and theft at their own expense with the insured sum being adequate to cover the replacement value. Should maintenance and inspection work be required, this is to be promptly performed by the buyer at their own expense.



3) The buyer is entitled to sell or use the reserved goods in a proper fashion in commercial transactions in so far as they are not in payment arrears. Pledges or assignment as security are not permitted. All accounts receivable and all claims - including the settlement of all outstanding current account balances - arising from resale or another legal ground (insurance, unauthorised act) concerning the reserved goods are hereby assigned by the buyer in advance by way of security to us; we hereby accept such assignment. Subject to revocation we authorise the buyer, acting on its behalf, to collect all debts or claims assigned to us for our account. This authorisation to collect can be revoked at any time should the buyer fail to properly fulfil their payment obligations. The buyer is not authorised to cede this claim for the purposes of claim collection by means of factoring, unless the factoring party undertakes simultaneously to effect the counter-performance amounting to the portion of our claim directly to us for as long as we hold claims against the buyer.

4) Processing or transformation of the reserved goods by the buyer shall be deemed to be performed on our behalf. Should the reserved goods be processed with other goods which do not belong to us, we acquire joint ownership of the new item proportional to the extent of the value of the reserved goods (final invoice amount including VAT) compared to the other processed items at the time at which processing takes place. The same provisions shall apply to the new item created by processing as apply to the reserved goods. Should the reserved goods be inseparably mixed (commingled) with other items which do not belong to us, we acquire joint ownership of the new item proportional to the extent of the value of the reserved goods (final invoice amount including VAT) compared to the other commingled items at the time at which commingling takes place. If the buyer's item resulting from commingling is deemed the primary item, we and the buyer are in agreement that the buyer will transfer joint ownership of said item to us on a pro rata basis; we hereby accept said transfer. The buyer shall keep our resulting sole or joint ownership in custody for us.

5) In the event of access by third parties to the reserved good - particularly distraint - the buyer will make reference to our ownership rights and immediately inform us thereof to enable us to enforce our ownership rights. Should the third party not be capable of reimbursing us for judicial or extra-judicial costs arising in this regard, the buyer shall assume liability.

6) We are obliged to release the securities to which we are entitled should the realisable value of our securities exceed the receivables to be secured by more than 10%; the choice of which securities to release shall be incumbent upon us.



### **VIII. Place of performance, jurisdiction and applicable law**

1) The place of fulfilment and place of jurisdiction for deliveries and payments (including actions arising in connection with cheques and bills of exchange), as well as all disputes arising between us and the buyer from the purchase contracts concluded between the same, shall be our company's registered office. However, we are also entitled to bring legal action against the buyer at their place of residence and/or registered office.

2) The relations between the contractual parties shall be solely governed by laws applicable within the Federal Republic of Germany. Application of the UN Sales Convention is excluded.

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