

General terms of delivery and payment

1. General provisions

1.1 The following general terms of sale and delivery apply to all business transactions with our buyers or purchasers (collectively "buyers"), even if they are not mentioned in subsequent contracts. The inclusion of general terms of purchase or other general terms and conditions of business of the buyer is hereby expressly rejected. This also applies if the buyer refers to his own business conditions, even if these contain defense and / or exclusivity clauses and we do not expressly object to them, irrespective of the chronological order in which the competing conditions are referred to by the contracting parties, unless this was agreed in writing

1.2 Our offers are not binding. Contracts and other agreements shall become binding only upon our written confirmation.

2. Price, terms of payment

2.1 Unless otherwise agreed, our prices are ex works and plus statutory value-added tax.

Price changes are permissible if more than four months are between the contract conclusion and the agreed delivery date.

If a significant increase or decrease of certain cost factors occurs between the conclusion of the contract and the date of delivery, such as, in particular, the costs of wages, materials or freight, we are, in case of price increase as well as price decrease, entitled and obliged, to adequately adapt the agreed price according to the influence of the decisive cost factors. The buyer is only entitled to rescind the contract if a price increase not only slightly exceeds the increase in the general cost of living in Germany between order and delivery.

2.2 Payments have to be made to our accounts without deductions up to the 15th of the month following the delivery ex works. We shall be entitled to charge interest on arrears at the rate that the bank calculates for current account credits, but at least in the amount of the statutory interest on arrears in the course of business transactions pursuant to § 288 para. 2 BGB, currently 9 percentage points above the base rate of the European Central Bank.

2.3 The buyer may only set off with undisputed, legally binding claims or claims which are in a contractual reciprocal relationship. Retention rights are only granted to him insofar as they are based on the same contractual relationship.

2.4 If, as a result of circumstances occurring after the conclusion of the contract, which result in a material deterioration of the assets, our payment claim is jeopardized, we shall be entitled to make it payable irrespective of the maturity of the bill. If the purchaser is in default with the payment and this indicates a threat to the realization of a not insignificant part of our claim, we are entitled to prohibit the further processing of the delivered goods, to take back the goods, to enter the shop of the buyer and to remove the goods. This does not apply if the buyer is not responsible for the payment arrears. The removal is not a withdrawal from the contract.

In the aforementioned cases, we may revoke the authorization for collection as per clause 7.8 and may demand prepayment for outstanding deliveries. All of these legal consequences can be averted by the buyer by way of security deposit in the amount of our endangered payment claim. If the buyer does not provide sufficient advance payment, down payment or security, we are entitled to withdraw from the contract.

2.5 We are entitled to the usual collateral for our claims according to type and extent, even if they are conditional or limited.

2.6 The statutory provisions on the delay in payment shall remain unaffected.

3. Dimensions, weights, grades

3.1 Deviations from dimension, weight, quality and other specifications are permitted according to DIN EN or if this is the current practice. Other deviations require a special agreement.

3.2 The weights shall be ascertained on our calibrated balances and shall be decisive for the invoicing. The weight verification is carried out by submitting the weighing protocol.

4. Dispatch and transfer of risk

4.1 Transport route and means of transport as well as the determination of the freight forwarder or carrier are left to us in the absence of special instructions.

4.2 If the loading or transport of the goods is delayed for a reason for which the buyer is responsible, we shall be entitled at buyer's expense and risk to store the goods at our discretion, to take all measures deemed appropriate for the preservation of the goods and to invoice the goods as delivered. The same applies if goods notified ready for dispatch are not retrieved within 4 days.

The statutory provisions on the delay in acceptance shall remain unaffected.

4.3 In the case of transport damage, the buyer shall promptly initiate an action record with the competent authorities.

4.4 Upon transfer of the goods to the freight forwarder or freight carrier, but at the latest upon leaving the factory or warehouse, the risk shall pass to the buyer.

4.5 For the interpretation of the trade clauses, the Incoterms shall be valid in the latest valid version. Unless otherwise expressly agreed, we supply according to Incoterms EXW our factory in Hagen, Westphalia, Germany, modified, as the case may be, by these general conditions of delivery and payment and other agreements with the buyer.

4.6 We are entitled to partial deliveries.

4.7 Unless otherwise agreed upon, the goods will be delivered unpacked and not protected against rust.

5. Delivery times, delivery delays

5.1 The agreed delivery times apply only on condition of timely clarification of all details of the order and timely fulfillment of all obligations of the buyer.

5.2 If the buyer fails to meet contractual obligations, including the obligation to cooperate or ancillary obligations, such as the opening of a letter of credit, the provision of domestic or foreign certificates, the payment of advance payment, etc., we are entitled to postpone our delivery times - without prejudice to our rights arising from the delay of the buyer - according to the needs of our production process if this is reasonable for the buyer, taking into account our interests.

5.3 For the observance of the delivery times the date of the dispatch ex works is decisive. If the goods cannot be dispatched in time without our fault, the delivery times are deemed to be adhered to.

5.4 If we are prevented from fulfilling our obligations by the occurrence of unforeseen events affecting us or our suppliers and which we could not avert with due diligence according to the circumstances of the case, such as war, intervention by state authorities, domestic disturbances, natural forces, accidents, other operational disturbances and delays in the delivery of essential operating materials or materials, the delivery time is extended by the duration of the hindrance and an appropriate start-up time. If the delivery is impossible or unreasonable for us due to the hindrance, we can withdraw from the contract; the buyer has the same right if the acceptance is not reasonable due to the delay. In any case, strikes or lockouts shall be regarded as a hindrance for which we are not responsible, within the meaning of this paragraph.

The delivery time is extended - without prejudice to our rights arising from the delay of the buyer - by the period during which the buyer is in arrears against us. If we are in default, the buyer may, after expiry of a reasonable period of grace set by him in writing, withdraw from the contract if we are responsible for the non-compliance of the delivery date. The same applies if the delivery of the goods becomes impossible for reasons for which we are responsible. We undertake to notify the buyer without delay of the occurrence of an unforeseen event within the meaning of paragraph 1.

5.5 A right of rescission to the buyer or to us according to clause 5.4 applies in principle only to the part of the contract which has not yet been fulfilled. If, however, partial deliveries are unsuitable for the buyer, he is entitled to withdraw from the entire contract.

5.6 In addition, the statutory requirements and provisions for delivery delay apply.

6. Defects of the goods, warranty

6.1 We shall not be liable for material defects which do not significantly reduce the value or suitability of the goods.

6.2 Claims for material defects shall become statute barred within 12 months. This does not apply if the law stipulates longer mandatory deadlines, in particular for deficiencies in a building and in a product which has been used for a building according to its usual use and caused its defect.

6.3 If an acceptance of the goods or an initial sample inspection has been agreed, the complaint is excluded of defects, which the buyer could have determined with careful acceptance or first sample inspection.

6.4 We shall be given the opportunity to determine the defect reported. The complained goods must be returned to us immediately upon request; we accept the transport costs if the complaint is justified. If the buyer fails to comply with these obligations or makes changes to the goods which have already been complained without our consent, he will lose any claims for material defects

6.5. In the case of justified, timely notification of defects, we shall, at our option, rectify the goods complained about or provide perfect replacement.

6.6 If we do not fulfill these obligations or do not comply with the contract within a reasonable time, the buyer can set us a written deadline within which we have to fulfill our obligations. After the unsuccessful expiry of this period, the buyer may demand a reduction in the price, withdraw from the contract, or carry out the necessary rework by himself or by a third party at our expense and risk. A cost reimbursement is excluded as long as the expenses increase because the goods have been moved to another place after our delivery, unless this corresponds to the intended use of the goods.

6.7 Legal claims by the buyer against us shall only exist insofar as the buyer has not entered into agreements with his customer which go beyond the statutory claims for defects. In addition, the last sentence of Section 6.6 shall apply mutatis mutandis to the extent of the recourse claims.

6.8 In the case of goods sold as declinated material, e.g. so-called II-a-material, the buyer is not entitled to any warranty rights with regard to the defects stated and those with which he is normally expected.

7. Retention of Title

7.1 Buyers domiciled abroad are obliged to inform us of all statutory regulations in force in their country which (a) make the implementation of the following regulations impossible or (b) impose additional conditions (for example registrations) for their implementation. In the case of (a), the buyer is obliged to agree to contractual agreements which in a permissible manner meet the purposes of security described in this section "7. Retention of title ". In the case of (b), the buyers are obliged to participate in the creation of the additional conditions in a reasonable manner, in particular to give their consent to any registrations and to perform and make all other necessary actions and declarations.

7.2 All delivered goods shall remain our property (reserved goods) until all claims have been fulfilled, in particular also those balances which are due to us in connection with the business relations. This also applies to future and conditional claims, eg from reverse bills of exchange.

7.3 Machining and processing of the reserved goods shall be carried out on our behalf as a manufacturer within the meaning of § 950 BGB, without imposing any obligations on us. The machined or processed goods shall be regarded as reserved goods within the meaning of section 7.2.

7.4 In the case of the processing, connection and mixing of the reserved goods with other goods by the buyer, the co-ownership of the new item is proportional to the invoice value of the reserved goods at the invoice value of the other goods. If our property expires by combination, mixing or processing, the buyer shall already transfer to us the property or title rights to the new property or the title to the new property within the scope of the invoice value of the reserved goods, in the case of processing in proportion to the invoice value of the reserved goods to the invoice value of the other goods used, and keeps them free of charge for us. Our co-ownership rights are regarded as reserved goods within the meaning of section 7.2

7.5 The buyer may resell the reserved goods only in normal business transactions to his normal business conditions and as long as he is not in arrears, provided that he agrees with his customer retention of title and that the receivables from the resale in accordance with sections 7.6 and 7.7 are transferred to us. He is not authorized to make other dispositions about the reserved goods. The use of the reserved goods for the fulfillment of works and work delivery contracts also applies as resale.

7.6 The claims of the buyer from the resale of the reserved goods are already assigned to us now. They serve to the same extent as the reserved goods within the meaning of section 7.2.

7.7 If the Buyer sells the reserved goods together with other goods, the receivables from the resale shall be assigned to us in the ratio of the invoice value of the reserved goods to the invoice value of the other goods. In the

case of the resale of goods on which we have co-ownership shares pursuant to section 7.4, a portion of the claims corresponding to our co-ownership share shall be assigned to us.

7.8 The buyer is entitled to collect claims from the resale. If the buyer undertakes the collection, this has to be done on a banking account separated from the other business accounts, which is managed by trustee. The buyer has to take all necessary and reasonable measures so that the payment of the third party does not take place to another account. On demand, the buyer is obligated to provide proof of the establishment of a bank account which has been tied in trust for the money he has collected. At our request, he is obligated to notify his customers immediately of the assignment to us - if we do not do this ourselves - and to provide us with the necessary information and documents for collection. The buyer is obliged to transfer the collected amounts from the assigned claims to us. We revoke the recovery authorization in the cases specified in section 2.4 or if the buyer fails to meet his payment obligations from the revenue collected. In such cases, we are entitled to collect the assigned claim ourselves. The buyer is obligated to provide us with all necessary information for collection and to hand over the related documents. In this case, the buyer is further obliged to notify the debtors of the assignment to us.

7.9 The buyer shall not be authorized to assign the claims; This also applies to factoring transactions which are not permitted to the buyer by virtue of our collection authorization.

7.10 The buyer must notify us without delay of a seizure or other impairment by a third party.

7.11 If the value of the existing collateral exceeds the secured claims by a total of more than 20%, we shall be obliged to release collateral at our discretion if the buyer so requests.

7.12 In the case of breaches of duty by the buyer, in particular in the event of a delay in payment, we shall be entitled to withdraw from the contract and to take back the goods after the unsuccessful expiry of a reasonable period set for the buyer; the statutory provisions on the dispensability of a deadline shall remain unaffected. The buyer is obliged to surrender.

8. General limitation of liability

The liability for all damages is excluded, as far as they are not expressly named in the above provisions, even if they did not arise at the delivery item itself. The foregoing exclusion of liability does not apply in the case of willful or grossly negligent behavior as well as in case of violation of essential contractual obligations (so-called cardinal obligations) and also not when we have assumed the guarantee for the condition of the thing or for its durability. In such cases, our liability is limited to the foreseeable damages typical for the contract. Furthermore, the exclusion of liability shall not apply in cases in which defects of the delivery item are liable for damage to life, body or health or to privately used objects. The above exclusion of liability shall also apply in the case of breaches of duty by or for the benefit of persons for whose fault we are responsible according to legal regulations

If, in the manufacture of the goods according to analyzes, samples or other information of the buyer, third party rights are infringed, the buyer shall indemnify us from all claims arising from the use of such proprietary rights as well as expenses arising from or in connection with the claim. We are not entitled to enter into any agreements without the consent of the buyer, in particular to conclude a settlement.

9. Liability for contract work

In the case of damage or other damaging alteration of the material during processing by us or during storage at our premises or during unloading and loading as well as transportation in our company, we shall be liable up to the amount of the salary owed by the customer for the processing of the damaged material, unless the damage or detrimental change is due to intent or gross negligence. In addition, paragraph 8 applies to the limitation of liability.

10. Applicable law

The law of the Federal Republic of Germany applies. The application of the CISG is out-ruled.

11. Place of Performance and Jurisdiction

Place of performance and jurisdiction for both parties is Hagen / Westphalia. We are also entitled to sue the buyer at his general court of jurisdiction.

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