

GENERAL TERMS AND CONDITIONS OF BUSINESS

I. General

1. All our contracts without exception shall be subject to the following terms and conditions. With its placement of an order, the Customer acknowledges our terms and conditions.
2. We hereby repudiate all terms and conditions contrary hereto.
3. These terms and conditions shall apply also to all future business transactions with the Customer.
4. Our terms and conditions are on display in our business premises for inspection. On request, a copy will be sent to you free of charge at any time.

II. Execution of contract, subject matter of the contract

1. A contract shall become effective only after we have issued a written acknowledgement or performed the agreed order. However, we have the obligation to give immediate notification in writing if we refuse an order.
2. Our offers are made without engagement. The Customer shall be bound to its offer for one month.
3. All agreements are to be set down in writing upon execution of contract. All covenants which are not set forth in writing shall be deemed not to have been made. The written form shall be deemed agreed also for collateral covenants, promises and subsequent amendments, including cancellation of contract.

III. Prices and payments

1. Prices represent the value of the goods without discounts and rebates, plus loading, packaging, freight and any insurance to be taken out by special agreement, and also exclusive of value-added tax at the statutory rate.
2. Payment shall be made in "€" free to Ulm without deduction when the invoice or other billing document is handed over or forwarded.
3. Default interest will be charged at the rate of 5%, in the case of transactions not involving consumers at the rate of 8% p.a. higher than the base rate published in the Bundesanzeiger (Federal government gazette). In supplement to statutory regulations, we have the right to charge a higher interest rate if we can prove a higher burden unless the Customer can prove that we suffered no loss of interest at all, or sustained a substantially lower loss.
4. Payment orders, cheques and bills of exchange will be accepted only with a view to payment, with all discounting and collection charges paid.
5. Against our claims, the Customer may offset only uncontested or acknowledged counterclaims, or counterclaims upheld by a final court judgment.
6. A right to withhold payment may also be exercised but only in the case of uncontested or acknowledged counterclaims, or counterclaims upheld by a final court judgment and only in cases which are based on the same contractual relationship.

IV. Delivery and delays in delivery

1. Adherence to delivery obligations on our part is conditional upon the Customer's duly performing its obligations in good time.
2. The above is subject to the proviso that correct delivery is made to us on time.
3. Delivery dates or delivery lead times which may be bindingly or non-bindingly agreed must be laid down in writing. Delivery lead times shall commence upon execution of contract. If subsequent amendments are made to the contract, it may be necessary to agree on a new delivery date or delivery lead time.
4. The delivery lead time shall be deemed adhered to if the goods to be delivered leave our premises or notice of readiness for shipment has been sent before the delivery lead time expires.
5. After we have exceeded a non-binding delivery date or delivery deadline by six weeks, the Customer may request us in writing to make delivery within a reasonable period of time. We shall be deemed in default only after we have received this admonitory letter. This shall not apply if the above period of grace is unreasonably long. A period of grace of reasonable length shall then apply.
6. If our delay is due to slight negligence, liability for damages on our part is barred unless it is a question of injury to life, body and health.
7. Alternatively, we restrict our liability on grounds of delay through slight negligence to typical damage which is foreseeable.
8. Force majeure, rebellions, strikes, lockouts and considerable disturbances of operations which are not our fault shall extend the deadlines and lead times set forth in Clause 3 by the duration of the disturbances of performance caused by these circumstances, plus a reasonable period for restart.

V. Passage of risk, delivery, inspection, obligation to submit complaints

1. Risk shall pass to the customer upon delivery to the carrier, at the latest, however, upon leaving our premises. If the goods are ready for shipment, risk shall pass to the Customer one week after receipt of notice of readiness for shipment unless we have taken over the shipment of the goods. Should the shipment or acceptance be delayed on grounds which are the Customer's responsibility, then risk shall pass to the Customer when notice of readiness for shipment is sent. We have an obligation to take out insurance coverage only if specially requested to do so in writing by the Customer, to the extent specified and at the Customer's expense.
2. The Customer shall inspect the goods for defects - even in cases where the goods are to be resold - and shall submit a written complaint without delay within ten working days if any defect is found.

VI. Duty to examine, warranty

1. If the purchased item is defective or one or several of its warranted characteristics is/are missing, the seller shall be obliged, at its own discretion, to remedy the defects or deliver a substitute. The contract partner must grant appropriate time and opportunity for this. If the contract partner cannot reasonably be expected to accept the remedy of defects or the delivery of a substitute, or if the seller refuses to provide supplementary performance or if the remedy of defects fails at least twice, the contract partner shall be entitled to reduce the purchase price or withdraw from the contract.
2. Any claims by the contract partner for defects of the purchased items (warranty claims) are subject to a time limit of 6 months from delivery of such item.
3. The provisions of this paragraph shall not apply if the seller has fraudulently concealed the defect or has provided a guarantee that the purchased item will be of a particular quality.

VII. Exclusion of indemnification, limitation of liability

1. If our obligation to pay damages is based only on a slightly negligent breach of essential contractual obligations, liability for damage on our part and on the part of our statutory representatives and vicarious agents shall be limited to the damage which was foreseeable and is typical for this type of contract.
2. If our obligation to pay damages is based only on a slightly negligent breach of non-essential subsidiary obligations, liability for damage on our part and on the part of our statutory representatives and vicarious agents is barred.
3. In all cases of liability for damage on grounds of negligent breach of obligations, irrespective of the legal grounds thereof, our liability for damage shall be limited to the damage that we could have foreseen.
4. Alternatively, we bar a liability for damages on our part, on the part of our statutory representatives and our vicarious agents insofar as we are responsible for a slightly negligent breach of a contractual obligation which of its nature and consequences does not place the purpose of the contract at risk.
5. If damages are sought from us under producer's liability pursuant to Article 823 BGB (the German Civil Code) (claim in tort), we restrict our liability further than set forth in the above provisions, namely to the benefits payable by our third-party liability insurance. The insured sum will cover what is typical damage for the particular type of contract and subject matter. Insofar as the insurance covers damages only partly or not at all, this shall not affect the limitation of liability to the insured amount. If the insurance coverage is not typical for the damage, the contract, or the subject matter, then in such cases we shall limit our liability to an amount which is typical for the damage, the contract, or the subject matter.
6. The above provisions of Article VII, 1 - 5 shall not apply if injury to life, body and health is involved and/or to claims under the Produkthaftungsgesetz (German law on product liability).

VIII. Reservation of title

1. In all cases, we reserve title to the delivered goods until all payments due under the delivery contract concerned have been made.
2. Furthermore, we reserve title to the delivered goods until all current and future claims under the business relationship have been satisfied. In all cases, the Customer shall hold the delivered goods in safekeeping free of charge exercising all the due care of a prudent businessman.
3. It is prohibited in all cases to pledge the goods in which title is reserved or to assign them by way of security. We must be notified without delay of any attachment or seizure or any other form of execution against the goods by third parties, and all documents needed for raising an objection must be forwarded at the same time.
4. Over and above this, the Customer has the right to process and sell the delivered goods in the course of its ordinary business as long as it is not in default. Upon execution of the purchase contract it shall assign to us all claims against its customers which are due from such sales or on any other statutory grounds, in an amount corresponding to the amount invoiced for the delivered goods in which title is reserved.
5. The right to sell and the authorization to collect the assigned claims shall cease if the Customer ceases to make payments or if insolvency proceedings have been applied for or opened, also in the event that a cheque or bill of exchange is protested. In such cases, the Customer shall give us an account of the goods in which title is reserved and of the assigned claims without delay and without having to be requested to do so.
6. The reservation of title shall continue also if the various claims are included in a current account and the balance is drawn and acknowledged unless the balance is zero.
7. Should the value of the provided collateral exceed our claims by more than 20%, then, at the Customer's request, we have an obligation to release such collateral as exceeds the required limit, at our option and reasonable discretion.
8. We are entitled to take back the goods in which we reserve title following a notification in the cases set forth under Clause 5 above, and also when the Customer is in arrears with a substantial portion of its payment obligations. Neither this nor an attachment by us shall be deemed withdrawal from the Contract. The Customer has an obligation to return the goods. A right to withhold is barred.
9. Revenues which the Customer collects under claims which have been assigned to us are to be recorded separately until they are remitted to us, in order to ensure that they are not offset and/or netted with overdraft bank accounts.

IX. Applicable law, place of jurisdiction

1. This Agreement shall be governed by the laws of the Federal Republic of Germany, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). If the English legal meaning differs from the German legal meaning of this agreement and its terms, the German meaning shall prevail.
2. The place of performance for all mutual claims under the contractual relationship is Ulm.
3. The place where our principal offices are registered is the place of jurisdiction for all claims arising under the business relationship, including actions relating to cheques and bills of exchange if the Customer is a business undertaking (Ist-Kaufmann). However, we also have the right to sue the Customer at the court having jurisdiction at its domicile.