

General Terms and Conditions



§ 1 General

All contracts, deliveries and services are regulated exclusively by our following General Terms and Conditions. They apply with regard to merchants and companies as well as for all future business relationships without the need for explicit repeated reference thereto. Any contradictory General Terms and Conditions, in particular the customer's Conditions of Purchase, are only valid if confirmed by us.

§ 2 Offer and Acceptance, Service Description

Our offers are non-binding. The acceptance of a still valid offer leads to a binding order only if and when confirmed by us in writing. Our written confirmation of the order is exclusively relevant for the terms of the contract. Technical data and descriptions in our product information or marketing materials do not constitute a guaranty of quality or durability and particularly do not guarantee any specific properties. In case of sample-based sales, the Purchaser shall inspect the Goods immediately and report any complaints within a period of five days in writing. After this period has expired, the sample or specimen is deemed to be accepted and the desired contractual relationship comes into effect. Customised orders are only realised when the technical requirements put forth by the Purchaser are unambiguous and feasible and are confirmed by us in writing. Models and tools remain our property, even when the customer has paid for their construction.

§ 3 Prices, Terms of Payment and Default

The prices specified in the respective contract, particularly in the order form or the order confirmation, are valid plus statutory VAT (value added tax). If a price is not explicitly defined, our respective price lists at the time of the contract are valid. The weights and quantities defined by us determine the calculation of the prices unless the Purchaser objects immediately upon receipt of the Goods and proves the contrary. Packaging and transportation costs, and any costs of transportation insurance, are charged in addition.

Unless otherwise agreed, our invoices are payable within 14 days of receipt. After this period has expired, the Purchaser is automatically in default and has to pay interest from then on in the amount of currently five percentage points above the base rate of the European Central Bank.

Discounts are only given if separately agreed upon. The final invoice amount minus shipping costs, packaging costs and pallet value is discountable. If circumstances become known that give rise to justifiable doubt about the Purchaser's ability to pay, we have the right to freely choose to either withdraw from the contract or to demand prepayments or securities for receivables due or not yet due from the entire business relationship, and to make the obligation to deliver dependent on the provision of such securities.

§ 4 Transportation, Transfer of Risk, Place of Fulfilment

Place of fulfilment is our business location in Emskirchen, Germany. Unless otherwise agreed upon, delivery will be made in accordance with Incoterms 2010 EXW Emskirchen. The transfer of risk takes place as soon as the Goods have been provided ready for loading and collection, or, in case of collection, as soon as we have expressed readiness for dispatch in writing. However, not prior to the delivery date agreed upon. Transportation of goods takes place exclusively and in all cases at the Purchaser's risk, even if the delivery is carried out by us, be it with one of our own lorries or freight carriers or other commissioned third parties.

§ 5 Packaging

We charge for the pallets used for shipping. If the pallets are returned carriage paid in undamaged condition, we will accredit the same amount. If the goods are packaged in a different way than the usual standard based on the customer's wishes, these packaging costs will be charged separately.

§ 6 Time of Delivery and Performance

Specific delivery dates are generally not stipulated. Delivery dates indicated serve for orientation only. If in an individual case, a specific delivery date is stipulated, it shall be binding only subject to the timely receipt of the necessary materials and the functioning free of any defects of the finished product in quality control. In case of force majeure, we are relieved from our obligation of delivery until the force majeure has ended. We shall immediately inform the customer of such an event. The impossibility of sufficient delivery with raw materials, the impossibility of obtaining means of transportation as well as strikes and lockouts shall be equated with force majeure. Both partners will determine by mutual consent whether an additional delivery should be effected after the force majeure has ceased to compensate for the deliveries not fulfilled during the force majeure event. We generally do our best to meet agreed delivery dates, with the notification of readiness for dispatch qualifying as fulfilment of the delivery date. In case of force majeure and other unforeseeable circumstances beyond our control, particularly operational disruptions through fire, water and damage to production facilities and machinery caused thereby, non-delivery by our suppliers, disruptions due to lack of raw materials, power failure, strikes or lockouts, traffic disruptions or interventions by the authorities, the delivery time will be extended appropriately. If the delivery is postponed by more than a month, both we and the Purchaser have the right to withdraw from the contract with any claims for damages being excluded. In case of a performance default caused by us, the Purchaser has the right to withdraw if the delivery of Goods fails to take place within a reasonable grace period. In the event of delayed delivery, the Purchaser is entitled to claim compensation in the amount of 1 % of the delivery price per full week of delay, however a maximum of 15 % of the delivery price. Further claims for damages resulting from delay cannot be made.

§ 7 Purchaser Rights and Obligations, Retention of Ownership and Prohibition of Assignment

The Purchaser undertakes to collect the Goods declared ready for dispatch immediately and to pay within the term of payment in compliance with article 3. The Purchaser undertakes to immediately check the Goods for defects and to report any defects detected. The delivered Goods remain our property up to the full payment of all invoices currently due under the business relationship and shall thus be treated with care by the Purchaser and shall be sufficiently insured at replacement value, particularly against loss, damage and destruction as well as against theft, at the Purchaser's expense. The Purchaser assigns any claims arising from insurance policies to us, and we accept this assignment. For enforcing these claims, the Purchaser has to provide address and membership number for the respective insurance. The Purchaser is not permitted to pledge the Goods in our ownership nor to transfer title to the Goods by way of security. Processing of the Goods prior to payment is only allowed upon our express prior consent. Any claims resulting from a resale of the Goods delivered by us are assigned to us, and we accept this assignment. For enforcing these claims, the Purchaser has to provide name and

address of his customer. Attachments and any other third-party interventions shall be brought to our attention immediately so that we can exercise our rights arising from the reservation of title. Even through processing, Goods under our retention of title do not become the property or the co-property of the Purchaser. The conclusion of a contract shall by no means constitute our renunciation of any trademark rights and industrial property rights we may have.

§ 8 Warranty and Compensation

We are obligated by the contract to provide the Goods free from material defects and defects of title. The Goods are free from defects when they possess the agreed quality or are suitable for common use and have a quality that is usual amongst goods of the same nature and that can be expected by the Purchaser from this type of goods. Minor deviations in the product properties, in particular minor differences in colour and texture as well as insignificant deviations in length, width and thickness of the material delivered, are not considered defects. If the Goods do not have these properties, the Purchaser can expect subsequent fulfilment within the warranty period, provided that he has complied with his obligation of immediate inspection and notification of defects. It is our decision whether we remedy or deliver replacement Goods. If this is impossible or too expensive, i.e. possible only on the basis of disproportionately high costs, we can refuse subsequent fulfilment. In this case, the Purchaser may withdraw from the contract or, if he keeps the defective Goods, demand an appropriate price discount. Here, the value of the Goods in a state free of defects and the significance of the defect for the fulfilment of the contractually intended results need to be specifically taken into consideration. If the Purchaser withdraws from the contract without any justifying cause, he has to pay lump-sum damages of 30 % of the value of the Goods due to breach of contract unless the Purchaser can prove a minor damage. If our damage is verifiably greater, we may demand higher compensation of damages. The warranty period is one year, or five years in the case of a building and for a product that was used in conformity with its customary manner of utilization and was the cause of the building's defectiveness.

§ 9 Liability

Compensation claims for damages and expenses of the Purchaser are excluded regardless of their legal basis, but especially on account of breach of responsibilities deriving from the contractual obligation or from impermissible acts. This does not apply in the case of acceptance of a guarantee or a procurement risk. Nor does this apply where liability is legally mandated, such as under the Product Liability Act, in cases of premeditation or gross negligence, due to injury to life, body or health, or violation of essential contractual obligations. However, a damage claim for a breach of material contractual duties shall be limited to foreseeable damages typical of the contract, unless gross negligence exists, or the liability covers injury to life, body or health. The above rulings do not constitute any change in the burden of proof to the disadvantage of the Purchaser.

§ 10 Instruction / Product Surveillance

The Purchaser is obliged to carefully observe the product instructions issued by us and to forward them to any downstream users and/or customers with a special advice note. If the Purchaser fails to comply with this obligation, and if this failure leads to product or producer liability claims against us, he shall indemnify us from any such claims by internal arrangement; if circumstances for which we are responsible have been contributory, the indemnification shall be proportionate to the cause. The Purchaser is obliged to observe the products furnished and their practical application. This shall also apply after effected resale. The obligation to product observation shall in particular relate to destructive characteristics of the product which are still unknown, or in relation to use or consequences of use which might impact damages. We must be informed immediately of any knowledge gained.

§ 11 Component Suppliers

We are entitled to appoint third parties for the fulfilment of the contract. If the delivery contains merchandise from third parties, we are not obliged to inspect this merchandise above and beyond the normal incoming goods inspection. We shall not be held responsible for any fault on behalf of the merchandise manufacturer. Any third-party advertising promises do not constitute a quality agreement.

§ 12 Time of Limitation for Claims

Purchaser claims due to services rendered in breach of our duty, including compensation claims and claims for replacement of futile expenditures, expire a year after delivery. Exempted from this are claims for damages according to the product liability law and damages in context with the lack of assured properties; these claims expire three years after delivery.

§ 13 Place of Jurisdiction, Applicable Law

Exclusive place of jurisdiction for all claims resulting from the contractual agreement is the court in charge of our company's headquarters. The law of the Federal Republic of Germany is exclusively applicable; the regulations about the international purchase of Goods (CISG) and of international civil law are expressly excluded.

§ 14 Technical Consulting, Information, Training

Our technical information, suggestions and consultative services are only binding if they are carried out in relation to a specific project and in writing. Furthermore, our specifications and guidelines related to the technical implementations apply.

§ 15 Final Clause, Severability Clause

Additional oral agreements besides the written contracts have not been made. Any changes and amendments require the written form. In case single provisions of these general terms and conditions should be invalid as a whole or in part, the validity of the remaining provisions are not affected. The parties undertake to replace the ineffective provision or provision requiring supplementation or interpretation with a new provision which best corresponds to the intended economic purpose.