

General Terms and Conditions of Business valid from January 2017 (General conditions of sale, delivery and payment)

I. Area of Application

Our offers, deliveries and services to entrepreneurs (Section 14 of the German Civil Code (Bürgerliches Gesetzbuch – BGB)), legal entities under public law or funds under public law are based solely on these General Terms and Conditions of Business and these conditions therefore apply for any future business, even if not specifically agreed. We expressly reject any statements to the contrary on the part of our contractual partners referring to their own terms and conditions.

II. Offers and the Conclusion of Contracts

- All offers are subject to confirmation and not binding. Acceptance of orders and any purchase orders require our explicit confirmation, at least in text form to become legally binding. The same applies for additions, changes or ancillary agreements. Order confirmations/declarations of acceptance must be verified immediately with regard to quantity to be delivered, dimensions and technical aspects and any objections must be raised without delay. In the absence of an immediate objection, manufacturing will be undertaken in accordance with the order confirmation. Subsequent changes will only be carried out by us following our express written confirmation. Any additional cost ensuing must be borne by the purchaser. Samples or dummies are only non-binding samples for viewing purposes to demonstrate the approximate nature of goods. Only the confirmed (at least in text form) samplings shall be legally binding.
- With regard to drawings, illustrations, dimensions, weights, raw densities or other performance data we reserve the right to make changes, provided the delivery item is not significantly changed by this or its quality is improved and provided the changes or modifications are reasonable for the purchaser. Our employees, sales and trade representatives are not permitted to enter into ancillary agreements verbally exceeding the content of the contract or to issue verbal statements of consent.

III. Prices and Quantities

- If not stipulated otherwise, prices are quoted ex works or warehouse and without any ancillary costs accruing, such as assembly, start-up, transport or packaging costs, customs duties in the case of export deliveries, charges or other public dues.
- If not stipulated otherwise, we are permitted to deliver 10% above or below the quantities stated in the order. Invoices are always issued for amounts corresponding to the actual volumes delivered.

IV. Payments

- Our invoices are due for payment within 10 days upon receipt of invoice. If we allow longer payment terms, payment is due at the end of the payment period stated on the invoice. For late payments we will charge interest in the amount 9% above prime lending rate.
 - Payments made by our purchasers are first netted against the oldest debts. If payment is made by cheque, payment is only considered to have been made after the cheque has been cashed. Outstanding payments are only considered paid through a bill of exchange, after the bill of exchange has been credited. Any discounting, collection and other fees shall be paid by the purchaser and must be paid immediately when due.
 - Only after payments due have been made, we are obliged to provide further service. If the payment term of an invoice is exceeded or if circumstances become known to us which place the creditworthiness of the purchaser in doubt, we are entitled to demand payment of all other outstanding invoices with immediate effect, even if we have granted a postponement or bills of exchange have been accepted.
- In addition we are entitled to withdraw from any current contracts. We are no longer obliged to carry out deliveries or we may make those subject to prepayment or provision of security.
- Payments should be made to the banks and bank accounts stated on our letterhead or other official documents.
 - Our representatives are not entitled to accept payments. Any other than standard payment terms must be agreed before conclusion of the contract.
 - Purchasers shall have rights of retention and off-setting rights only to the extent that the counter claims are undisputed or legally enforceable or derive from reciprocal obligations.

V. Orders

Orders can only be cancelled with our prior written consent. In case of cancellation, a payment of 25% of the purchase price agreed becomes due as compensation for loss of earnings - without the need to provide specific proof. If damages accrued amount to more than 25%, such damages must be proven to the purchaser. The purchaser has the right to prove that the actual damages are less. If orders for so-called special goods - in other words customized goods - are cancelled, the purchaser shall be responsible for all resulting cost including cost for disposal.

VI. Passing of Risk

If the purchaser is a company in the legal sense, risk shall be passed as soon as the goods have been transferred to the carrier contracted or the merchandise has left our warehouse for shipping. If shipping becomes impossible for reasons for which we are not responsible, the risk is passed to the purchaser being a company as soon as notice has been issued that the goods are ready for dispatch. This shall also apply if we have agreed to pay for transport or delivery cost.

VII. Packaging

If the goods are shipped on pallets, the pallets are charged at our regular cost price. If they are returned to our premises, the charge for the pallets will be reimbursed less a user fee.

VIII. Warranty (Gewährleistung)

- The purchaser must check the goods for any defects immediately upon receipt. We must be informed of obvious defects in writing within a week upon receipt of the goods. Immediately upon discovery, we must be informed of any hidden defects that could not be discovered within this period even after careful examination.
- In the event of the delivery of defective items, we shall have the choice of effecting subsequent performance by means of rectification of the defect or delivery of nondefective items. The expenditure necessary for the implementation of the subsequent performance, in particular any transport-, work- and material-related costs, shall be borne by us. Any expenditure arising as a result of the delivery of the goods sold to a location other than the place of performance agreed upon by the parties shall not be borne by us.
- We shall be entitled to make the subsequent performance owed by it conditional upon the payment by the Purchaser of the outstanding amount of the purchase price. However, the Purchaser shall be entitled to withhold payment of such part of the purchase price which is commensurate with the defect.
- The limitation period for the bringing of claims on grounds of defective goods pursuant to Section 479 para 1 no. 2 of the BGB - except in the case of fraudulent intent and subject to Section 479 - shall be one year, commencing from the date of the delivery or, where acceptance is required, upon acceptance. If the goods delivered are used for regular building purposes, the warranty period is 5 years.
- Resort to the consumer is permissible to the extent granted by §§ 479, 479 BGB (German Civil Code) in so far as the consumer was entitled to such recourse.

IX. delivery Time for Goods and services

- delivery times or periods which can be agreed either in binding or non-binding form must be stated in text form. Unloading of goods is not included in the delivery service.
- We shall not be held accountable for delays in the delivery of goods and services due to force majeure and events which render any fulfillment of order/s particularly difficult or impossible for the purchaser, particularly during such events as strikes, lock-outs, official orders, shortage of raw materials and traffic problems such as jams, road blocks etc. - also if suffered by our suppliers or their sub-suppliers - entitle us to delay supply of goods or services for the period of the delay plus a reasonable preparation time or to withdraw completely or partially from the supply contract with regard to that portion of goods subject to the delay. This does not apply if we are responsible for the delay in the delivery of goods and services.
- If the delay lasts for more than three months, the purchaser - after an appropriate extension - is entitled to withdraw from the contract to the extent of that portion of the contract which has not been fulfilled. The purchaser shall not be entitled to claim damages, if the period of delivery is exceeded or if we are released from our obligation to deliver goods or services in accordance with § 311 Abs. 1. We can only claim relief based on the aforementioned circumstances, if we have notified the purchaser immediately.
- We are entitled to implement partial deliveries of goods and services where the purchaser can make use of these for the intended purpose stipulated in the agreement, the delivery of the rest of the ordered goods is guaranteed and this arrangement does not result in significant additional outlay or additional costs for the purchaser.
- In any event, fulfillment of delivery times or delivery periods presupposes final clarification of all technical details and prompt supply of any specifications, documents, approvals, releases etc. due from the purchaser. X also the purchaser providing any necessary prerequisites - along with receipt of any contractually agreed deposits.

X. Retention of Title

- Until all payments have been made (including all payments from current accounts or bills of exchange) which are due to us for any legal reasons whatsoever from the purchaser and his affiliated companies now or in the future, we shall be assigned the following securities to be released upon request, if the value of the securities exceeds the value of payments due by more than 10% on a long-term basis.
- The goods shall remain our property. Processing or reforming of the goods is therefore always carried out for us acting as manufacturer but without obligation on our part. If our (co-) ownership ceases due to our goods having been combined with other goods, it is deemed agreed that the (co-) ownership of the purchaser in the combined articles is transferred to us in the proportion of their value (invoice amount). The purchaser shall store the goods which we hold (co-) ownership in free of charge. Goods we hold (co-) ownership in are designated hereinafter as goods subject to retention of title.
- The purchaser shall be under a duty to store and label the goods subject to the reservation of title separately. At its own expense, the purchaser shall insure the goods subject to the reservation of title against fire, damage caused by water, burglary and theft. On request, the insurance policy must be submitted to us for inspection. The purchaser assigns to us in advance all rights to claim under the insurance policy. We accept said assignment.

- The purchaser is entitled to process and sell the goods subject to retention of title in the normal course of business as long as he is not in arrears of payment. However, the goods shall not be assigned to third parties by way of lien or security. Any payment claims arising from reselling the goods or any other reason (insurance, unlawful act) with regard to goods subject to retention of title (including all payments due from the current account) are pre-assigned to us by the purchaser by way of security. We accept said assignment. Subject to cancellation, we grant permission to the purchaser to call in payments for our account in his own name. This permission can only be cancelled, if the purchaser does not fulfil his payment obligations to us in a proper manner. At our request, the purchaser shall disclose the assignment and provide us with the information and documentation necessary to collect the accounts receivable.
- If attempts are made by third parties to seize the goods, the purchaser shall refer to our property rights and inform us immediately. Any associated cost and damages shall be the responsibility of the purchaser.
- If the purchaser acts contrary to the provisions of the contract - in particular, if he is in arrears with payment -, we shall be entitled to take back the goods subject to retention of title and, if appropriate, to require assignment of the claims to hand over goods held by the purchaser as against third parties.
- In the event that the law applicable in the country, in which the subject matter of the delivery is located, does not permit the agreement of a reservation of title, or does so only in a limited form, we may reserve other rights over the delivered goods. The purchaser shall be obliged to assist with all measures (e.g. registration) necessary for effecting the reservation of title or rights in substitution of a reservation of title, and to assist in the safeguarding of such rights.

XI. limitation of liability

- We shall be liable for damage arising as a result of the breach of material contractual obligations, i.e. contractual obligations the fulfillment of which is central to and in fact enables the proper implementation of the agreement, and upon whose fulfillment the other party to the agreement generally relies and is entitled to rely, even in cases of simple negligence. To the extent we are not guilty of gross negligence or intentional misconduct we shall only be liable to pay compensation for typically occurring damage which would have been foreseen, upon the conclusion of the agreement, as a possible consequence of a contractual breach.
- In all other cases we shall only be liable if the damage has been caused by one of our executive employees or other agents with gross negligence or intentionally. We shall be liable according to the legal stipulations for harm to life, body and health, if and insofar as we have assumed a guarantee for the consistency of the sold object. Our liability shall otherwise be excluded.
- Our mandatory liability according to product liability laws shall remain unaffected.
- Claims for damages according to the aforementioned items XI.1-XI.3 shall become time-barred according to the statutory provisions.
- Claims for damages based on the breach of the obligation to rectify a defect according to Sections 437 para 1, 439 BGB shall only exist, if both a) the purchaser has demanded rectification of said defect and b) we have breached our obligation during the time period defined in item VIII.4.

XII. Transfer

Ceding claims the purchaser holds against us as a result of the business relationship is not permitted.

XIII. Governing Law, Legal Venue, Severability

- These General Terms and Conditions and the entire business relationship between ourselves and our contractual partners are governed by the law of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- In so far as the purchaser is a merchant in the sense of the German Commercial Code (HGB), a legal entity under public law or acc. to a special fund under public law, Konstanz shall be the exclusive legal venue for all disputes arising directly or indirectly from the contractual relationship. We may, however, at our discretion, also assert our own claims against the purchaser before the courts at the purchaser's principal place of business. We shall also have the choice to have any dispute, controversy or claim arising out of or in connection with this agreement finally settled by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The arbitration shall take place in Zurich. Upon request by the purchaser we are obliged to exercise our option within one week upon receipt of said request, if and when the purchaser wants to pursue legal action against us.
- If any provision of these General Terms and Conditions should prove or become invalid, the validity of all remaining clauses or agreements shall not be affected. The invalid provision - provided it is not a general term or condition - shall be replaced by a provision which, in its economic content, comes closest to the invalid provision. The same applies mutatis mutandis in the event of an omission.

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