

GENERAL TERMS AND CONDITIONS OF SALE

- 1. General – application**
- (1) Our terms and conditions of sale shall apply exclusively; terms and conditions of the customer which conflict with or vary from our terms and conditions of sale shall not be accepted by us unless we approve their application expressly in writing. Our terms and conditions of sale shall apply even if we carry out the delivery to the customer without reservations while being aware of terms and conditions of the customer that conflict with or vary from our terms and conditions of sale.
 - (2) All agreements made between the customer and us for the performance of this contract are set out in writing in this contract.
 - (3) These terms and conditions of sale shall also apply to all future sales contracts that we as seller may enter into with the customer.
- 2. Prices – terms of payment**
- (1) Unless otherwise stated in the order confirmation, our prices are "ex works", duty unpaid, and exclusive of transportation, packaging, and insurance costs.
 - (2) Our prices do not include statutory value-added tax, which shall be stated separately in the invoice at the statutory rate applicable on the invoice date. The customer shall be obliged to provide us on request with the required documentation evidencing the customer's exemption from value-added tax, where applicable. If the tax office does not recognize the exemption from value-added tax, the customer shall indemnify us against all value-added-tax obligations and liabilities resulting from such non-recognition, including any related incidental costs, unless we are responsible for the fact that the exemption was not recognized.
 - (3) Unless otherwise stated in the order confirmation, the purchase price shall be due and payable net (without any deduction), and be transferred to the bank account designated by us, within 30 days of the invoice date. The purchase price shall become due regardless of whether the customer already got a chance to examine the purchase item.
 - (4) The customer shall only have the right to make a set-off if the customer's counter-claims have been established in a judgment which cannot be appealed against, are undisputed, or have been recognized by us. The same shall apply to rights of retention, the exercise of which shall additionally require that the counterclaim is based on the same contractual relationship.
- 3. Delivery dates/periods and terms of delivery**
- (1) The delivery period stated by us shall not commence until all technical issues have been clarified.
 - (2) Compliance with our obligation to deliver shall further require the timely and proper performance of the customer's obligations. We reserve the right to plead non-performance of the contract.
 - (3) If the customer fails to comply with its obligations to cooperate, in particular, with regard to the acceptance of the goods, we may claim compensation for the damage or losses – including any additional expenses – incurred or suffered in this regard. We reserve the right to assert further rights or claims.
 - (4) Partial deliveries shall be permitted even without a separate agreement.
 - (5) Unless otherwise stated in the order confirmation, the delivery dates or delivery periods stated, if any, shall not be binding (no transaction for delivery by a fixed date).
 - (6) We shall not be deemed to be in breach of contract if and to the extent that we fail to perform any of our obligations due to events of force majeure which are beyond our control, such as natural disasters, terrorism, unrest, war, or strike.
 - (7) We shall be liable for delays in delivery as provided by law if the delay in delivery is due to a wilful or grossly negligent breach of contract for which we are responsible; any fault on the part of our representatives or vicarious agents shall be attributed to us. Except in cases of wilful misconduct, such liability shall be limited to the foreseeable damage or loss that is typically suffered.
 - (8) Furthermore, we shall be liable for delays in delivery as provided by law to the extent that the delay in delivery is due to the wilful or negligent breach of a material contractual obligation for which we are responsible; however, in this case, too, our liability shall be limited to the foreseeable damage or loss that is typically suffered.
 - (9) The packaging – in particular, the transport packaging – will not be taken back, regardless of whether the packaging of the goods forms part of the delivery obligations owed.
- 4. Retention of title**
- (1) We shall retain title to the purchase item until all payments under the supply contract have been received. The transfer of risk shall take place regardless of this retention of title.
 - (2) The customer shall be obliged to handle the purchase item with care until ownership is transferred. In particular, the customer shall be obliged to insure the purchase item adequately at its replacement value against damage by fire, water, and theft, at the customer's own expense. If any maintenance and inspection work is required, the customer must timely carry out such work at its own expense.
 - (3) Subject to the provisions of paragraph (4) below, the customer shall have no right, until the transfer of ownership, to encumber or otherwise dispose of the purchase item without our prior consent in text form. In the event of attachments or any other interference by third parties, the customer shall notify us without delay in writing.
 - (4) The customer shall have the right to resell the purchase item in the ordinary course of business to the extent that the customer agrees with its purchaser on the retention of title until all payments under the contract have been received. However, the customer hereby assigns to us all of its claims against its purchasers or third parties which arise out of such resale, up to an amount equal to our claims. The customer shall remain authorized to collect such claims. If, however, the customer defaults on a payment, we may demand that the customer inform us of the assigned claims and their debtors, that the customer provide us with all the information needed for collection, and that the customer notify the debtors (third parties) of the assignment.
- (5) To the extent that the applicable property law does not recognize retention-of-title agreements or stipulates further requirements for the conclusion of such agreements, the customer shall be obliged, if so requested by us, to provide us at its own expense with any assistance that we may request in this regard or create a security interest which is economically comparable.
- 5. Liability for defects**
- (1) The customer's claims for defects, if any, shall be conditional upon the customer having properly performed its obligations to examine the purchase item and to report defects.
 - (2) If the customer demands subsequent performance, we may choose between repairing the purchase item and delivering a new purchase item that is as agreed.
 - (3) Unless expressly otherwise agreed, we shall not be liable to ensure that the purchase item is fit for a particular purpose.
 - (4) We shall not be liable to ensure that the purchase item is in conformity with any laws or regulations outside the country in which we are based.
 - (5) We shall be liable for defects as to title resulting from intellectual property right infringements only to the extent that the infringing right has been registered and published both in the contractually agreed country of destination of the purchase item and in the country in which we are based and that the contractually intended use of the purchase item is, at the same time, impaired.
 - (6) The limitation period for claims for defects shall be 12 months, calculated from the transfer of risk.
- 6. Limitation of liability**
- (1) We shall be liable for damages as provided by law if the customer asserts claims for damages which are based on wilful misconduct or gross negligence, including wilful misconduct or gross negligence on the part of our representatives or vicarious agents. Except in cases of wilful misconduct, such liability shall be limited to the foreseeable damage or loss that is typically suffered.
 - (2) We shall be liable for damages as provided by law if we breach a material contractual obligation wilfully or by negligence; in this case, too, our liability for damages shall be limited to the foreseeable damage or loss that is typically suffered.
 - (3) The preceding provisions shall not affect our liability for death, bodily injury, or damage to health caused wilfully or by negligence; this shall also apply to mandatory liability under the German Product Liability Act.
 - (4) To the extent not otherwise provided above, any further liability for damages shall be excluded, regardless of the legal nature of the asserted claim. This shall also and in particular apply to claims for damages arising out of fault in the conclusion of the contract, other breaches of duty, or tort claims for compensation of damage to property.
 - (5) To the extent that our liability for damages is excluded or limited, this shall also apply to our employees', staff members', representatives', and vicarious agents' personal liability for damages.
- 7. Export control**
- (1) Our obligations shall be subject to the condition that all required export licences are granted and that no other export restrictions exist under the mandatory law of the European Union, the United States of America, or any other relevant jurisdiction. If any such regulations cause a delay in delivery of three months or more, either party may rescind the contract.
 - (2) The customer, in turn, shall be obliged to comply with all export regulations applicable to it. In particular, the customer shall be obliged not to export or re-export the purchase item directly or indirectly to any country for which export restrictions exist. If the customer does not strictly adhere to all applicable export regulations, we shall have the right to rescind the contract.
- 8. Rescission**
- (1) Without prejudice to any other rights under applicable law, we shall have the right to rescind the contract if
 - a. the customer fails to pay the purchase price within 30 days after the due date, or if it fails to perform its obligation to accept the purchase item, or if the customer declares that it will not do so within a period of time set for this purpose; or
 - b. the customer does not perform its contractual obligations that need to be complied with for the delivery of the products within 14 days after a request to this effect; or
 - c. the customer's ability to meet its financial obligations deteriorates to such an extent that we cannot expect that the purchase price will be paid in due time.
- 9. Place of jurisdiction – applicable law – place of performance**
- (1) For contracts with customers who are based in a Member State of the European Union, or in Iceland, Norway, or Switzerland, the following rule shall apply: The place of jurisdiction shall be our place of business; however, we may also sue the customer in the court having jurisdiction over the customer's place of residence.
 - (2) For contracts with customers based neither in a Member State of the European Union nor in Iceland, Norway, or Switzerland, the following rule shall apply: All contractual and non-contractual disputes arising out of or in connection with contracts that are governed by these General Terms and Conditions of Sale shall be finally settled in accordance with the Arbitration Rules of the German Institution of Arbitration (DIS) without recourse to the ordinary courts of law. The place of arbitration shall be our place of business. The arbitral tribunal shall consist of three arbitrators; if the amount in dispute is less than EUR 100,000.00, the arbitral tribunal shall consist of one arbitrator. The language of the arbitral proceedings shall be German.
 - (3) The applicable law shall be the law of the Federal Republic of Germany, including the United Nations Convention on Contracts for the International Sale of Goods (CISG).
 - (4) Unless otherwise stated in the order confirmation, the place of performance shall be our place of business.