

## **General Terms and Conditions of Business**

The following terms and conditions apply, unless expressly agreed otherwise in writing. Deviating terms and conditions of the customer are not binding for us. We shall only be bound to such terms if and insofar as we have explicitly declared our agreement with the customer's terms and conditions in writing.

### **I. General**

Our offers are subject to confirmation. Verbal agreements must be stated in writing in order to be effective. An agreement to waive this clause for the requirement of the written form must also be made in writing in order to be effective.

Details of our products (technical data, dimensions etc.) are only approximate; they do not constitute guaranteed characteristics unless such a guarantee has been given explicitly and in writing.

### **II. Prices, terms of delivery and payment**

1. Unless otherwise agreed in writing, the prices which we state are ex-works or ex dispatch warehouse. Invoicing will be made at the price which is valid on the date of collection or the date of delivery. Our prices do not include statutory VAT. This will be stated separately in the invoice. For persons within the meaning of Art. 310 I 1 BGB [*German Civil Code*] (companies, legal persons under civil law, or separate legal entities under public law), we shall apply the rates of VAT which apply on the date of collection or delivery.

Unless otherwise agreed our invoices are payable within 10 days of receipt of the invoice, without deduction.

If the customer becomes in arrears with payment we shall be entitled to charge interest at the rate of 5% in excess of the basic interest rate. If the customer is a company or other person within the meaning of Art. 310 I 1 BGB, the rate of interest is 8% in excess of the basic interest rate. We reserve the right to provide evidence of higher damages due to the arrears.

2. Our delivery times are only approximate and non-binding. As far as possible, delivery times which have been confirmed will be complied with; however no guarantee for this is accepted. Agreements with regard to a binding delivery time must be made explicitly in writing.

The customer may withdraw from the contract if we become in arrears with delivery due to reasons for which we are responsible, and the customer has given us a grace period without success. Claims for compensation by the customer due to breach of obligation are excluded, unless we or our agents have acted in a wilful or grossly negligent manner.

Unforeseen events for which we are not responsible (for example energy shortage, delay of delivery of essential components and other materials, import or export difficulties, disruption to operation or transport, strikes, lock-outs and force majeure) shall extend the delivery time accordingly. If we are unable to deliver, even after a reasonable extension, both we and the customer shall be entitled to withdraw from the contract. Claims for compensation by the customer are excluded.

The costs for packaging and dispatch ex-works or ex dispatch warehouse shall be borne by the customer. We shall determine the transport route and the method of transportation. We shall only be obliged to take out transport insurance on the explicit written order of the customer. The customer shall bear the costs of such insurance.

Transportation is made in good faith, without any liability on our part. In particular, we shall not be liable for any change or deterioration of the goods during transport or due to improper storage.

Risk is transferred to the customer as soon as the goods have left our factory or dispatch warehouse, even if we provide further services such as cost-free shipping, export or similar services. If we have indicated to the customer that the goods are ready for dispatch or shipping, the risk shall be transferred to the customer if he/she does not call up or collect the goods and we have set a reasonable period of grace without success. The aforementioned regulations for dispatch and the transfer of risk do not apply if the purchaser is a consumer.

### **III. Warranty / Breach of duty due to faults**

1. The customer must examine the goods immediately on receipt. Obvious faults must be reported to us in writing within 10 days. In case of failure to do this, the goods shall be deemed to be accepted. With regard to consumers, this regulation only applies in the case of obvious faults.
2. Our liability extends to freedom from faults according to the state-of-the-art.
3. In the case of production according to drawings provided by the customer, we shall only be liable for production according to the drawings. We shall also not be liable for faults of materials which are provided by the customer.
4. Our liability is limited to subsequent fulfilment, i.e. provision of replacement or reworking at our discretion. The customer must surrender the faulty goods or replaced parts to us. If the subsequent fulfilment is not successful, or we are unable to provide subsequent fulfilment, the customer shall be entitled to withdraw from the contract or to reduce the purchase price.
5. The limitations of liability regulated under No. 3 and No. 4 do not apply for the purchase of consumer goods.
6. We shall be liable for faults for a period of two years after delivery of the goods. If the customer is a company or other person within the meaning of Art. 310 I 1 BGB, the period of limitation is one year.
7. Any claims by the customer for any legal reason whatever, other than the aforementioned, are excluded. We shall not be liable for damage which has not occurred to the goods themselves and shall not be liable for other damages to the customer's assets. The above exclusion of liability does not apply to personal injury. It does not apply insofar as the damage is due to wilful action or gross negligence, or if a fault was maliciously concealed. It also does not apply if the damage is due to the lack of a characteristic which we have guaranteed. The exclusion of further liability for compensation does not apply to claims according to Arts. 1, 4 of the German Product Liability Act [*Produkthaftungsgesetz*].

### **IV. Entitlement to refuse payment, right of retention and right of settlement**

The right of retention by the customer on the basis of a different legal relationship is excluded. Rights of retention by the customer on the basis of the same legal relationship are also excluded if the customer is a company or another person within the meaning of Art. 310 I 1 BGB and the counter-claim is contested or has not been legally established. The customer shall not be liable to settle against a counter-claim if this claim is contested or has not been legally established.

The aforementioned regulation applies accordingly for the right of refusal of payment by the customer.

### **V. Reservation of title**

1. The goods which are delivered by us remain our property until the fulfilment of all claims resulting from the specific order. With regard to businesses or other persons within the meaning of Art. 310 I 1 BGB we reserve the right of ownership until the fulfilment of all claims to which we are entitled for any legal reason whatsoever with regard to the customer.
2. The customer commits to only sell the goods which are subject to reservation of title in the course of normal business, under his normal terms of business and as long as he is not in arrears with payment. He is only entitled to resale on condition that the claim according to the resale is transferred to us according to the following clauses. He is not entitled to dispose of the goods subject to the reservation of title in any other manner.
3. The customer hereby assigns to us his claims from the resale of goods which are subject to the reservation of title, regardless of whether the goods have been sold to one or several buyers. This applies regardless of whether the goods subject to reservation of title have been sold with or without processing or whether or not the goods have been combined with an item of real estate or a moveable property. If the goods subject to reservation of title are resold after processing or after combination with other goods, the claim of the customer with regard to his buyer is deemed to be assigned to us to the amount of the price which was agreed between us and the customer for the goods subject to reservation of title.

If goods which are our property are processed together with other objects, we shall acquire co-ownership of the new object in relationship to the market value of our goods to the market value of the other processed objects at the time of processing. The customer shall safeguard the new object for us with the normal degree of care.

4. The customer shall be entitled to enforce the claims due to resale, which have been assigned to us until our revocation, which may be made at any time. The customer is not entitled to assign the claim under any circumstances. Our entitlement to enforce the assigned claim on our own account remains unprejudiced by this. However, we commit not to exercise this right, providing that the customer properly complies with his obligations for payment.

5. On our demand, the customer shall be obliged to notify the buyer of the assignment immediately - unless we do not inform the buyer ourselves - and to provide evidence of such notification and to send us the information and documents which are necessary for the enforcement of the assigned claim together with this notification.

6. On demand by the customer, we shall be obliged to release securities, whose attainable value exceed our claims by more than 20%. We reserve the right to select the securities which are to be released.

7. If we accept bills of exchange as a means of payment, the reservation of title remains until it is established that we are no longer subject to claims from this bill of exchange. Bills of exchange which are received by the customer due to the assigned claims are hereby assigned and endorsed to us. The customer shall keep the endorsed bill of exchange on our behalf.

8. The customer is obliged to inform us immediately of any seizure or other impairment by third parties. If the customer has not complied with a payment date or has otherwise breached a contractual agreement, or if circumstances become known to us, which cause a reduction of the customer's creditworthiness, we shall be entitled to prohibit the resale of the goods subject to reservation of title, to demand the return or granting of direct ownership of the goods at the expense of the customer or, if the goods have already been resold, but have not been fully or partially paid for, to demand payment direct from the customer's client.

## **VI. Concluding provisions**

The place of fulfilment for both parties is Wuppertal. The place of jurisdiction, including for the process of bills of exchange and cheques, is Wuppertal if our contract partner is a business. The law of the Federal Republic of Germany applies exclusively. Application of the UN Sales Convention is excluded.

In the case of export of our goods by our customer to areas outside of the Federal Republic of Germany, we accept no liability for the case that our products infringe the protective rights of third parties. The customer shall be obliged to provide compensation for all damages which are caused by the export of our goods, which were not explicitly delivered by us for export.

Ineffectiveness of individual provision does not prejudice the validity of the remaining provisions.