



§ 1. General – scope

1. Our Terms & Conditions of Sale shall apply exclusively; we shall not recognise terms and conditions of sale issued by the Customer which are conflicting or different from ours, unless we have expressly agreed to their validity in writing. Our Terms & Conditions of Sale shall apply even if, though cognizant of conflicting or different terms and conditions issued by the Customer, we carry out delivery to the Customer without proviso.
2. All Agreements reached between us and the Customer for the purpose of executing this contract are set out in this contract. Supplements or amendments to contract shall only be valid if they are in writing. Verbal assurances by our representatives or other assistants shall require written confirmation by us.
3. Our Terms & Conditions of Sale shall only apply to business or commercial Customers as defined in Section 14 of the German Civil Code (BGB), to legal entities under public law, and to separate public estates.
4. Our Terms & Conditions of Sale shall apply to all present and future business relations with the Customer.

§ 2. Conclusion of contract

1. Our offers shall be non-binding. The contract shall not be created until our written confirmation of order has been given and, should no confirmation of order have been sent, until delivery or until receipt of our invoice.
2. If the Customer's order is to be deemed an offer under the terms of Section 145 of the German Civil Code (BGB), we may accept this within 2 weeks following delivery to ourselves.

§ 3. Prices – terms and conditions of payment

1. Insofar as the confirmation of order does not state otherwise, our prices shall be ex works or ex store. We shall be entitled to charge the Customer for all additional cost-accounting expenses, that were unforeseeable for us when concluding the contract and are not imputable to us, incurred following conclusion of contract (e.g. new or higher customs dues, taxes, increase in market prices of raw materials, increases in the charges levied by Third Parties involved in the performance (particularly manufacturers and suppliers)). Should the price resulting therefrom be 20% or more above the agreed price, the Customer shall be entitled to withdraw from contract. This right must be exercised immediately following notification of the increase in price.
2. Our prices shall include the standard packaging used by ourselves. Insofar as it has not been agreed otherwise, the Customer shall pay all other ancillary costs, particularly costs of additional packaging, freight charges and transport insurance.
3. When calculating the price, our calculation of the weight at delivery shall be decisive.
4. Statutory Value Added Tax will not be included in our prices; it will be shown separately on the invoice at the statutory rate on the day of invoice issue.
5. Insofar as the confirmation of order does not state otherwise, the Customer agrees to pay the purchase price net (without deduction) within 10 days following receipt of invoice. Timeliness of payment shall be determined on the basis of receipt of payment. On expiry of this period the Customer shall be in default of payment.

Should the Customer be in default of due payments, including payments due under earlier contracts, either wholly or to a significant extent, we shall be entitled to call in all existing receivables.

6. The Customer shall be entitled to make an offset or exercise a right of retention only if his counterclaims have been successfully asserted at law, are undisputed, or are recognised by ourselves. Moreover he

shall be entitled to exercise a right of retention only insofar as his counterclaim is based on the same contractual relationship.

§ 4. Delivery – transfer of risk – delivery time

1. Unless agreed otherwise, our deliveries shall be ex works or ex store. Should the contract of sale provide for delivery by carrier, we shall be entitled to ship the goods from a place other than the place of fulfilment. Risk of accidental loss, destruction or deterioration of the item of sale shall pass to the Customer upon handover. Should the item of sale be forwarded, risk shall pass upon surrender to the carrier, forwarding agent, freight carrier or person or institution appointed to effect the shipping.
2. Commencement of the delivery time stated by ourselves presupposes the settlement of all technical questions. To meet an agreed delivery deadline it shall be sufficient to have made dispatch in good time from the works or store.
3. Fulfilment of our duty of delivery further presupposes timely and proper fulfilment of any duty incumbent on the Customer. The plea of unfulfilled contract (Section 320 of the German Civil Code (BGB)) and the plea of uncertainty (Section 321 of the German Civil Code (BGB)) are hereby reserved.
4. Should the Customer be in default of acceptance, or should he culpably breach other duties of collaboration, we shall be entitled to require the reimbursement of any additional expenses. In case of culpable default of acceptance or culpable breach of other duties of collaboration, insofar as a breach of duty under the terms of Section 280, Paragraph 1 of the German Civil Code (BGB) is to be seen therein, we may in addition require damages for the loss incurred thereby. Further claims are hereby reserved.
5. Insofar as the conditions of Paragraph 4, Clause 1 are satisfied, risk of accidental loss, destruction or deterioration of the item of sale shall pass to the Customer at the time when the latter is first in default of acceptance.
6. All events of force majeure for which under the terms of Section 276 of the German Civil Code (BGB) we are not responsible shall release us from fulfilment of the contractual duties assumed, for as long as these events last. We shall have a duty to notify the Customer immediately there of should such an event take place; we shall have a concurrent obligation to inform the Customer how long such an event is expected to last. Should we be permanently prevented from performing our contractual duties, we or the Customer may withdraw from contract. This also applies, in case such an event lasts longer than three months. In this case the counterperformance shall be reimbursed immediately. The same shall apply for all impediments to performance not imputable to us, e.g. sovereign interaction not imputable to us, ban on im- and/or exports, labour dispute, and defective, late or omitted delivery from our own supplier.
7. We shall be liable for delays in delivery in accordance with the rules set out in Section 7.

§ 5. Withdrawal

1. The customer may withdraw from contract, in pursuance of statutory regulations, if we are responsible for the breach of duty; in case of defects (Section 6), however, statutory preconditions shall continue to apply.
2. In case of breaches of duty, the Customer must declare to us within a reasonable period of grace after we have required him to do so whether he will withdraw from contract on the grounds of breach of duty or whether he insists on delivery

§ 6. Guarantee

1. We guarantee that our products shall be of perfect quality. Unless agreed otherwise, we shall supply them in accordance with our standard specifications. Our product-specific designations and technical information for use will be supplied in accordance with our state of knowledge existing at the time when the contract was concluded. The Customer must check whether the products supplied by ourselves are suitable for his end purpose. We shall accept no liability for any intended use differing from our

designations or for any further processing and any industrial property rights of Third Parties associated with the same.

2. The Customer's rights in case of defect presuppose that the latter has properly fulfilled his duties of inspection and complaint under Section 377 of the German Commercial Code (HGB). The Customer shall bear the entire burden of proof for all necessary conditions of claim, particularly for the defect itself, for the time of the defect, and for the timely submission of complaint.
3. Should the item of sale suffer a defect, and should timely complaint have been made of the said defect, we shall be entitled to make supplementary fulfilment in the form of a rectification of the defect, or to deliver a new defect-free item, as we may choose. Should we rectify the defect, we shall have a duty to pay all expenses required for the purpose of the said rectification, particularly transport costs, costs of shipping and handling, work costs and material costs. This does not include additional expenses caused by taking the item of sale to a place other than the Customer's commercial premises, and providing such removal was not consistent with its intended use. We shall be entitled to refuse supplementary performance completely, if both the rectification of the defect and the delivery of a new defect-free item cause unreasonably high costs.
4. Should subsequent fulfilment finally fail or should it be refused by us, the Customer shall be entitled to require withdrawal or reduction of price, as he may choose. In the case of merely minor defects, however, the customer shall have no right of withdrawal.
5. The period of limitation for claims involving defects shall be one year, calculated from the delivery of the item. The rules on liability in §7 shall not be affected hereby.
6. Furthermore, mandatory legal regulations shall not be affected – especially Sections 478, Paragraph 2 of the German Civil Code (BGB).

§ 7. Liability

1. We shall be liable without restriction in accordance with statutory provisions for gross negligence and deliberate act. Should we breach an essential condition of contract, we shall also be liable for simple negligence; in case of simple negligence, however, our liability shall be restricted to foreseeable (at conclusion of contract), typical loss. Contractual conditions shall be deemed essential if their fulfilment alone makes proper execution of the contract possible at all and if the contracting partner can usually trust that they be met. The above provisions shall also apply to culpability by our legal representatives or vicarious agents.
2. The above restrictions of liability shall not apply to bodily injury or injury to health, nor to loss of life. Nor likewise shall claims under product liability be affected by the above restrictions of liability. The above restrictions of liability shall also not apply in case of deceitful concealment of a defect and insofar as we have entered into a guarantee for the characteristics of the item of sale.
3. Insofar as liability for damages is excluded or restricted vis-à-vis ourselves, this shall also apply with respect to liability for personal damages by our employees, staff, representatives and vicarious agents.

§ 8. Reservation of title, rights of security, and compulsory insurance

1. We shall retain title to the item of sale until fulfilment of all receivables due under business relations with the Customer. Should a current-account relationship exist between the Customer and ourselves, this reservation of title shall also apply to the balance as recognised from time to time; the same shall apply insofar as a balance is not recognised but a "causal" balance drawn, e.g. because the Customer becomes insolvent or enters liquidation. This reservation of title shall expire once the balance receivable has been settled.
2. The Customer shall have a duty to treat the item of sale subject to retention of title ("Conditional Commodity") with care. In particular, he shall have a duty to insure the same sufficiently at replacement value and at his own cost against loss through fire, water and theft. The Customer shall cede to ourselves

here and now all receivables he may have against the insurer in the event of damage and commits himself to notifying the insurer of this assignment.

3. Pledges or transfer by way of security of the Conditional Commodity are not permitted. The Customer shall be entitled to resell the Conditional Commodity in the proper course of business, but he shall cede to ourselves here and now all receivables due to him for the sale from his purchasers or Third Parties to the amount of the final sum invoiced (including VAT), irrespective of whether the Conditional Commodity has been resold after work has been carried out on it or not. The Customer shall be entitled to collect this receivable even after cession. Our right to collect the receivable ourselves shall not be affected thereby. We hereby agree, however, not to collect the receivable as long as the Customer fulfils his duties of payment from the proceeds, is not in default of payment, and in particular no application has been made to open insolvency proceedings and no suspension of payments has been announced. Should this be the case, we may require that the Customer notify us of the receivables ceded and their debtors, provide all information needed for collection, hand over the related documents, and notify his debtors (Third Parties) of the cession.
4. Should the Customer act in breach of contract, in particular by being in default of payment, we shall be entitled to take back the Conditional Commodity, without previously withdrawing from contract. The Customer shall allow us here and now, should these conditions be met, to enter his business premises during usual business hours and to repossess the reserved goods. Having taken back the Conditional Commodity, we shall be entitled to realise its value by way of disposal; the proceeds shall be offset against the Customer's liabilities, less reasonable sale costs. We shall further be entitled to withdraw from contract, having set a reasonable period of grace.
5. Should Third Parties take a lien or make other distraints, the Customer must inform us thereof immediately in writing, in order that we may make a claim under Section 771 of the Civil Proceedings Code (ZPO). Should the said Third Party not be able to reimburse us for the costs of a claim, both in and out of court, under Section 771 of the Civil Proceedings Code (ZPO), the Customer shall be liable for the loss which we have sustained.
6. Any work performed by the Customer on the Conditional Commodity, and any rebuilding thereof, shall always be undertaken for ourselves. Should work be performed on the Conditional Commodity of such a kind as to combine it with other goods not belonging to ourselves, we shall acquire joint ownership of the new entity in the ratio of the value of the Conditional Commodity (final sum invoiced including VAT) to the other entities involved in the work at the time when the work was carried out. The entity created by this work shall otherwise be subject to the same provisions as the Conditional Commodity supplied under reservation of title.
7. Should the Conditional Commodity be mixed inextricably with other goods not belonging to ourselves, we shall acquire joint ownership of the new entity in the ratio of the value of the Conditional Commodity (final sum invoiced including VAT) to the other goods so mixed at the time of the mixing. Should mixing be so effected that the Customer's item of goods must be regarded as the principle item of goods, it shall be deemed to have been agreed that the Customer transfer joint ownership to ourselves pro rata. In this way the Customer shall hold the sole title or joint title for ourselves.
8. To secure our receivables due from him, the Customer shall also cede to us such receivables as are due to him from a Third Party from the combination of the Conditional Commodity with a landed property.
9. We hereby agree, should the Customer so require, to release the securities taken by ourselves insofar as the realisable value of all our said securities exceeds by more than 10% the receivables so secured. We shall be entitled to choose the securities for release.

§ 9. Flat charge for costs

1. Should we agree to take back the item of sale, though not legally obliged to do so, we shall be entitled to make a flat charge for costs, amounting to 15% of the net sum invoiced for the said item, plus VAT.



§ 10. Data processing

1. Information on the processing of personal data of our contract partners for the execution of pre-contract measures and to fulfill the contract can be found in our [Privacy Policy for Contract Partners](#) and in our general [Privacy Policy](#).

§ 11. Place of jurisdiction – place of fulfilment – proviso – applicable law

1. If the Customer is a trader, our registered office shall be the sole place of jurisdiction; we shall be entitled, however, to sue the Customer at any other legal place of jurisdiction.
2. If the Customer is a trader and the confirmation of order does not state otherwise, our registered office shall be the place of fulfilment.
3. Should any single provision in these General Terms & Conditions of Sale be or become invalid, either wholly or in part, the validity of all other provisions shall not be affected thereby.
4. The law of the Federal Republic of Germany shall apply, with the exception of its conflict of law provisions; application of UN Convention on the International Sale of Goods is hereby excluded.
5. This English version of the General Terms & Conditions of Sale is a mere translation. The original German version shall prevail.