

I. Scope

1. Our terms and conditions of sale apply exclusively. We do not accept contradictory conditions or conditions that differ from ours, unless we had expressly agreed to their scope in writing. Our terms and conditions of sale also apply if we deliver without reservations in the knowledge of contradictory terms and conditions or conditions that differ from ours.
2. All agreements made between us and the customer for the purpose of executing a contract must be laid down in writing in this contract.
3. Our terms and conditions of purchase only apply towards companies in accordance with § 310 para. 1 BGB (Civil Code).
4. Our terms and conditions of sales also apply to all future transactions.

II. Proposal – Proposal documents

1. If an order qualifies as a proposal in accordance to § 145 BGB (Civil Code), we are entitled to accept it within 2 weeks of receipt.
2. We reserve the right to ownership rights and copyright on figures, drawings, calculations and other documents. Third parties cannot have access to these without our express written consent.

III. Prices – Payment conditions

1. If there is no written agreement that differs, the prices quoted in the order are ex works, in Euro and do not include packaging.
2. The price indicated in the order is a net price. VAT is indicated separately per order for the entire order in the invoice.
3. The deduction of discounts requires a separate written agreement.
4. Unless otherwise agreed on in writing, deliveries are payable within 30 days, calculated from the time of delivery and receipt of invoice.
5. The customer is only entitled to set-offs if his counterclaims are legally effective, uncontested or recognised by us. In addition, he is only entitled to exercise retention rights if his counterclaim arises from the same contractual relationship.

IV. Delivery time

1. The start of the delivery time requires that all technical matters have been settled.
2. The fulfillment of our delivery obligation does also require that the customer has fulfilled all his obligations in time. We reserve the right to assert non-fulfillment of the contract.
3. If the customer is in default of acceptance or is otherwise in breach of his obligation to contribute, we are entitled to claim damages for any loss that might thus have been incurred.
4. In case of IV.3, the risk of accidental loss or accidental deterioration of goods is transferred to the customer at such time as he is in default of acceptance or payment.
5. We are liable in accordance with legal regulations if the underlying contract of sale is a firm deal according to § 286 para. 2 No 4 BGB (Civil Code) or § 376 HGB (Commercial Code). We are also liable in accordance with legal regulations if due to a default in delivery that we are responsible for the customer is entitled to assert that his interest in any fulfillment of the contract has been discontinued.
6. We are also liable in accordance with legal regulations if the default in delivery has been caused by a breach of contract that we are willfully or grossly negligently responsible for. If the default in delivery does not arise from a breach of contract that we are willfully responsible for, our liability is limited to a typical damage of the sort in question.
7. We are also liable in accordance with legal regulations if the default in delivery we are responsible for arises from our culpable breach of an integral provision of the contract, in which case our liability shall, however, be limited to a typical damage of the sort in question.
8. Otherwise, we are liable for default of delivery for any full week of such default to the amount of a flat rate of 0,5 percent of the delivery with a maximum total of 5 percent. Any further default in delivery liability is hereby excluded.
9. This is without prejudice to the customer's assertion of other legal rights.

V. Transfer of risk – Packaging costs

1. Unless otherwise stated in the order confirmation, delivery is ex works.
2. To taking back packaging, separate agreements shall apply.
3. On customer's request we shall arrange for insurance cover for the shipment; the customer shall bear the corresponding costs.

VI. Liability for defects

1. The customer's warranty claims require that he has fulfilled his inspection and complaint obligations in accordance to § 377 HGB (Commercial Code). Furthermore, the customer is obliged to inspect the object of sale at the location of the intended use.
2. If the object of sale shows a defect that occurred after the transfer of risk and which is not caused by faulty installation, we are with regard to supplementary performance at our discretion entitled to a replacement delivery or to issue a credit note in the amount of the purchase price. In case of replacement, product changes due to technical progress remain reserved.
3. If the supplementary performance should fail, the customer can choose either withdrawal or reduction at his discretion.
4. The compensation of costs arising from disassembly or installation is excluded, if the costs were neither necessary nor proportionate. The customer is required to provide the evidence for this purpose.
5. We are liable in accordance with legal regulations, if the customer claims for damages arising from intention or gross negligence by our representatives or one of our vicarious agents. If the customer does not assert any willful breach of contract on our part, our liability is limited to a typical damage of the sort in question.

6. We are liable in accordance with legal regulations if we are responsible for a culpable breach of an integral provision of the contract, in which case our liability shall, however, be limited to a typical damage of the sort in question. Integral provisions of the contract are provisions, which shape the contract and the observance of which the contracting party regularly thrusts.
7. This is without prejudice to our liability for a culpable injury to life, limb or health. This does also apply to the compulsory liability arising from the Produkthaftungsgesetz.
8. Unless otherwise agreed in the above, any liability is excluded.
9. The statute of limitations for complaints expires after 12 months from transfer of risk.
10. This is without prejudice to the statute of limitations for delivery recourse pursuant to §§ 478, 479 BGB (Civil Code). This is five years from delivery of the defective object.

VII. Joint liability

1. Any further liability for damages other than set forth in item VI. – without consideration of the legal nature of the asserted claim – is hereby excluded. This does apply to claims for damages from culpability at the conclusion of the contract, other breaches of duty or for tort actions for property damages pursuant to § 823 BGB (Civil Code).
2. This limitation as stated above does also apply in case of a claim for damages the customer demands the reimbursement of useless expenditures.
3. In so far as our liability for damages is excluded or limited, this shall also apply to the personal liability for damages of our staff, representatives and vicarious agents.

VIII. Reservation of ownership

1. We reserve the ownership of the object of sale until all payments arising from the supply contract have come in. If the customer is in breach of contract, especially if he is in default of payment, we are entitled to take back the object of sale, which shall constitute withdrawal from the contract. After having taken back the object of sale, we are entitled to utilise it as we see fit. Such proceeds have to be set off against the customer's payables – minus appropriate utilisation costs.
2. The customer is bound to treat the object of sale with diligent care. In particular is he contractually bound to insure it sufficiently against fire, water damages and theft at its replacement value at his own expense. If maintenance and inspection work has to be done, the customer has to do such in time and at his own expense.
3. In the event of distraint orders or other interventions by third parties, the customer has to notify us in writing forthwith, so that we are able to bring suit in accordance with § 771 ZPO (code of civil procedure). If third parties are unable to reimburse us the court and extrajudicial costs pursuant to § 771 ZPO (code of civil procedure), the customer is liable for the loss we have incurred.
4. The customer is entitled to sell the object of sale in the proper course of business. However, he hereby assigns all his receivables to our finally invoiced amount (including VAT), regardless of the object of sale having been sold prior to or after processing. The customer may still collect such receivables. This is without prejudice to our right to collect such receivables ourselves. However, we are hereby contractually bound not to collect such receivables if the customer is not in default of payment of the received proceeds, is not in default of payment in general and no petition in insolvency or composition has been filed or payments have not been suspended. If this is the case, however, we are entitled to demand that the customer notifies us of the assigned receivables and their debtors, gives us all data necessary for a collection of such receivables, hands over the attendant documents and notifies the debtors (third parties) of such assignment.
5. The processing or transformation of the object of sale shall always be done for us. If the object of sale is processed with other objects that do not belong to us, we are co-owners of the new object at the ratio of the object of sale's value at the time of processing (final invoiced amount, including VAT) to the other processed objects. The same provisions that apply to the object of sale delivered under reservation shall also apply to the new object.
6. If the object of sale is inseparably mixed with other objects that do not belong to us, we are co-owners of the new object at the ratio of the object of sale's value at the time of mixing (final invoiced amount, including VAT) to the other mixed objects. If the mixing is done in a way that makes the customer's object the main part of the new object, it is hereby agreed that the customer makes us co-owner on a pro-rata basis. The customer is in possession of the thus evolved sole or co-ownership on our behalf.
7. The customer shall also assign to us his receivables from third parties that might arise when the object of sale is combined with a piece of real estate to cover his payables to us.
8. We are bound to release the securities we are entitled to in so far as that the realisable value of our securities exceeds the value of the secured receivables by more than 10 percent. The selection of the securities to be released is at our discretion.

IX. Place of jurisdiction – Place of fulfillment

1. If the customer is a „Kaufmann“ (i.e. business man) according to German commercial law, the place of jurisdiction is Tettang. We are entitled to bring suit against the customer at his own place of jurisdiction.
2. These conditions of sale are subject to German law. Any applicability of the CSIG is hereby excluded.
3. Unless the order confirmation says otherwise, the place of fulfillment is Tettang.