

General terms and conditions

I. Validity

The following general terms and conditions apply exclusively to all our quotations, deliveries and sales. This also applies to all future business with the buyer without necessitating express reference in individual cases. Different terms of a contract party are ineffective, even if we do not explicitly contradict them; they are only valid if, in a single case, they are accepted in written form.

II. Offer and conclusion of contract

Our offers are always provisional and unbinding. All contracts with our customers will be effective only by our written order confirmation but upon delivery at the latest.

III. Prices

1. All prices are net ex works and without freight charges, packing, customs clearance and assembly.
2. We are entitled to adjust the prices in case of unexpected increases of raw material, wages, energy or any other cost.
3. Tools and devices which are necessary for the production will be invoiced proportionally and remain in our possession in view of our construction work.
4. In case that we take back material we will charge a handling fee of at least 30,00 € (net) independent from the value of the goods.

IV. Delivery

1. Place of performance is at our seat in Cologne or at the seat of our subsidiary effecting dispatch.
2. Our delivery times are not binding unless they are not explicitly marked as binding in the contract. Compliance with the delivery schedules is under the provision of timely receipt of all documents to be made available by the client and parts to be provided, all permits and releases as well as the compliance with the agreed payment terms and other obligations by the buyer. The delivery period shall be extended for the duration of an unforeseen disturbance to business processes beyond our control such as force majeure, fire, flood, industrial dispute, shortage of energy or raw material, traffic disruption, non-delivery by upstream suppliers. If the disturbance to business processes expires the agreed delivery time or a period of 3 months each of the parties is entitled to withdraw from the contract.
3. Without prejudice to the right of withdrawal acc. to § 2 the buyer cannot cancel the contract unless we come into default or do not comply properly another contractual obligation and a reasonable deadline set by the buyer of at least 2 weeks has expired without result. Setting a further time limit is not required for statutory exceptions. The rights of the buyer remain unaffected in case of a delivery claim.
4. For orders that are to be fulfilled with multiple supplies, non-fulfilment, faulty or delayed fulfilment of one delivery do not effect the other deliveries of the order.
5. We are allowed to deliver +/- 10 % of the ordered amount.
6. For frame orders we are entitled to obtain the material for the whole order and produce the whole amount immediately. Unless otherwise agreed, frame orders have to be supplied within one year.
7. Insolvency proceedings, affirmations acc. to § 807 ZPO, payment defaults or awareness of an important worsening of the buyer's asset relationship shall entitle us to stop deliveries immediately and refuse to fulfil current contracts until the buyer has paid in advance or provides sufficient security for our payment claims.
8. If the buyer has to provide us with parts which are necessary for the production of the order, he is obliged to ship them free of charge to our company in time, if necessary with an additional quantity for eventual rejects. These parts must be in excellent quality and in amounts that ensure an uninterrupted processing. The buyer has to bear eventual additional cost for delays, short deliveries or rework. In these cases we are entitled to interrupt the production until the matter has been settled.

V. Shipment

1. If the merchandise is shipped at the request of the buyer, then, on its handover to the shipping representatives the risks of the accidental destruction or accidental deterioration are transferred to the ordering party. This also applies in the event of freight-paid delivery and insofar as the transportation is carried out by ourselves.
2. At the request of the buyer, we insure the goods against the usual transport risks at his expense.

VI. Payment

1. Payment has to be effected in cash or by bank transfer to our specified bank account within 30 days after date of invoice without any deduction.
2. Retention on the part of the customer is excluded. Counterclaims can only be offset if they are undisputed or judicially determined. Unless otherwise agreed, tooling charges are to be paid net in half when ordering, the other half upon receipt of the samples.

VII. Property rights, tooling

1. We retain the property rights and copyright of all cost estimates, drawings and other documents; these may only be provided to third persons subject to our approval. Drawings and other documents which are requested along with quotations must be returned on demand and in any case in which the order is not placed with us.
2. If a third party forbids us to produce and deliver such items by referring to industrial property rights, then we are entitled to terminate any further activity and to claim damages – without being obliged to examine the legal position.
3. Unless otherwise agreed, any liability for defects arisen by an infringement of intellectual property rights and copyrights of third parties shall be limited that inland deliveries are free from the protected rights of third parties for the contractually agreed use by the buyer.

VIII. Reservation of title

1. We shall retain title to all goods supplied by us until the fulfilment of our current and future payment claims against the buyer from the business relationship.
2. The buyer is entitled to process the reserved goods in the ordinary course of business. The processing of these goods and their use will take place without binding us. Should our ownership extinguish by processing, alteration, reassembling or combining, the buyer transfers to us his ownership of the new item and keeps it safe for us. In the event of any processing of the reserved goods with other goods which do not belong to the purchaser, we are entitled to a co-ownership share of the new product in the ratio of the invoice value of the reserved goods to the rest of processed goods at the time of processing. In the event that the co-ownership is legally prohibited, the buyer will transfer to us his right to compensation in a corresponding amount as a surrogate.
3. The buyer is entitled to sell the reserved goods in the course of normal business as long as he fulfils his contractual obligations. He already assigns now to us all monetary claims arising out of the resale of the reserved goods; we accept this assignment. If we only have a co-ownership in the sold goods, the assignment will be restricted to the first priority partial payment of this whole demand that complies to our co-ownership share. The buyer is obliged to protect our rights if the reserved goods are sold on credit by agreeing on a retention of title. Until further notice, the customer shall have the right to collect the claims assigned to us resulting from resale. The transfer of the debts from the resale to a current account requires our approval as well as the assignment of the payment claim in the course of factoring.
4. The buyer's authorization to process and sell the goods subject to retention of title and to collect the assigned claims shall terminate if conditions of payment are not met and for the case provided for in chapter IV 8. In these cases we may withdraw from the contract and demand that the items subject to retention of title are surrendered. Upon revocation of the collection authorization the customer shall provide without delay a list of all his customers buying the items subject to the reserved goods stating all necessary information on the assigned claim and inform his customers accordingly.
5. The buyer is obliged to inform us immediately about enforcement measures or other interventions of third parties concerning the reserved goods. The buyer is liable for all reasonable judicial cost of prosecution against such third parties.
6. If the value of all securities existing for our benefit exceeds the existing sustaining demands by more than 20 %, we will release an appropriate part of our securities of our choice upon the buyer's request.

IX. Liability

Customer's claims for damage compensation, for whatever legal reason, are excluded. This shall not apply in cases of intent, gross negligence, negligent breach of essential contractual duties, warranty or in cases of injury of life, body or health of a person. Compensation for the negligent breach of essential contractual duties shall be limited to the predictable contract damage.

X. Complaints and Warranty

1. Obvious defects shall be notified immediately in writing, at the latest within 1 week after receipt of goods, giving concrete details (sample, delivery docket, invoice number). Latent defects have to be communicated in the same manner immediately after their discovery. The onus of proof for the fact that the defect was latent shall be with the buyer.
2. The warranty period shall be one year after date of delivery except when damage is due to intent.
3. For properly submitted and proven complaint we shall be entitled, to our opinion, to either replace or repair the defective products. This can be made conditional on an appropriate partial payment depending on the complaint. Should subsequent fulfilment definitely fail, the buyer shall be entitled, at his option, to withdraw from the contract or to claim damages according to chapter IX.
4. Our statements about the item delivered or service provided or its purpose etc. (i.e. dimensions, weights, hardness, usage values) only represent designations or labels and not guaranteed characteristics; they are only to be considered as approximate guiding values. Minor deviations from samples, earlier deliveries or other details or customary deviations do not justify any warranty rights, as long as they do not significantly affect the contractually presumed functional ability.

XI. Advice, Use and Processing

1. The on-site advice of our sales staff is always without obligation and shall not constitute a conclusive agreement for the purpose of § 434, chapter 1 BGB.
2. The advice from our departments in spoken and written and through tests is given to the best of our knowledge, but without warranty and without releasing the buyer from inspecting the goods supplied for the intended process and purposes. The application, use and processing of the goods are beyond our control and are therefore the sole responsibility of the buyer.

XII. Court of Jurisdiction; Effectiveness Clause

1. Exclusive court of jurisdiction for all disputes arising from and in relation with this contract is Cologne, provided that the buyer is a merchant. This shall also apply if the sales or deliveries are carried out by one of our branches. We shall hold the right to institute legal proceedings at the District Court (Amtsgericht) or at the Regional Court (Landgericht) of Cologne acc. to our choice and without consideration of the amount of the object in dispute. We shall be entitled to take also legal action, at our own option, at the buyer's court of justice.
2. The laws of the Federal Republic of Germany apply exclusively, the Uniform Laws of International Sale of Goods are excluded.
3. The ineffectiveness of individual terms does not affect these provisions.
4. Any telephone and verbal arrangements must be confirmed in writing to be legally binding.