

General Terms and Conditions

- § 1 Validity**
- 1) All our offers, services and deliveries shall be provided in accordance exclusively with these terms and conditions. The purchaser recognises these terms and conditions by accepting the goods or service provided.
- 2) Other terms and conditions of the purchaser, which we have not expressly recognised, are not binding for us, even if we do not expressly reject them.
- 3) These Terms of Business & Delivery shall also apply for global contracts provided that global contracts do not contain any other special arrangements.
- § 2 Adoption and content of contracts**
- 1) All offers are subject to change and are non-binding. Contracts are only adopted upon written confirmation. Agreements made verbally, by telephone or telegraph shall only be binding for us if we have subsequently confirmed same in writing.
- 2) Prices are ex works Stuttgart, unless agreed otherwise, excluding packaging.
- 3) Properties of the goods are only guaranteed if they have been expressly stated by us.
- § 3 Delivery periods**
- 1) Delivery periods stated by us are non-binding unless expressly agreed otherwise.
- 2) If events occur with us, or with our suppliers, which prevent delivery, such as force majeure, strike, lock-out, problems with the procurement of raw materials, war, lack of staff, shipping suspension, intervention by state authorities or similar circumstances, for which we are not responsible, the obligation to deliver shall be waived for the duration of the occurrence. This shall also apply if the aforementioned occurrences arise while we are in default of delivery. In case of the aforementioned delivery difficulties, we reserve the right to withdraw, fully or in part, from the contract with immediate effect.
- 3) We reserve the right to partial deliveries and services at any time.
- 4) We are entitled to cancel the contract with immediate effect in the event of a hindrance to delivery, provided that delivery has not yet been executed. Buyer is entitled to the same if the delivery period has expired or if we should enter into arrears with delivery, and Buyer has stipulated to us an adequate grace period for delivery accompanied by a warning that he will reject delivery and said grace period expires without results. Buyer is not entitled to more extensive claims, especially for compensation for damages due to delay, except in exceptional instances as set out under § 5 (8).
- 5) Buyer is obligated to state within a reasonable time period and at our request whether he will cancel the contract due to delayed delivery and/or will demand compensation for damages in lieu of performance in the exceptional instances set out under § 5 (8) or will insist on delivery.
- § 4 Transfer of risk, insurance**
- 1) Risk is transferred to the purchaser immediately the goods leave the delivery works, no later than 10 days after ready-for-shipment notification. This shall also apply if delivery has been agreed free-of-charge.
- 2) Transportation or other insurance of the goods shall be purchased and paid for by the purchaser.
- § 5 Warranty & Compensation for Damages**
- 1) Buyer is required to inspect received goods at the place of destination for defects and warranted qualities immediately after arrival. Said inspection requirement shall also remain in effect if reference samples have been sent. Delivered goods shall be deemed approved if we have not received a written complaint within 10 (ten) working days from the date of their arrival at the place of destination. Concealed defects that cannot be discovered during immediate inspection may only be asserted against us if we receive a written complaint immediately after discovery of any such concealed defect or within 3 (three) months, at the latest, after the goods arrived at their place of destination.
- 2) Unless otherwise agreed in writing, information concerning our products, and especially pictures, drawings, technical information and references to standards and specifications contained in our offers and brochures do not represent any guarantee of inherent qualities or shelf life, as defined by Sections 434 & 443, German Civil Code, rather they solely constitute descriptions or identifications. The same shall likewise apply for delivery of patterns or samples.
- 3) Buyer is required to give us the opportunity to review complaints and especially provide us with damaged goods and their packaging so that we can inspect them. We shall be released from liability for defects in the event of Buyer's refusal to comply with the above requirement.
- 4) We are required, at our own discretion, to repair or replace defective goods at our own expense within a reasonable time period that Buyer has specified to us. Replaced goods shall become our property and are to be returned to us. Buyer may, at his own discretion, either cancel the contract for the delivery subject to complaint or reduce the purchase price thereof if repair or replacement delivery are not possible within the reasonable time period stipulated by Buyer or fail for other reasons for which we are responsible.
- 5) We shall pay the costs directly associated with repair or replacement delivery and the costs of replacement delivery, insofar as the complaint emerges as justified. Buyer shall bear any costs that may arise for him. Buyer is required to pay all and any required and expended assembly or travel expenses that arise in conjunction with unjustified notices of defects. Any changes or maintenance work that Buyer or a third party perform improperly and without our prior written approval shall release us from any liability for the consequences thereof.
- 6) Buyer's claims based on costs required for the purpose of follow-up performance, especially transportation, transport and wage costs and cost of materials, are excluded provided that costs arise because the delivery item was taken to a site other than Buyer's place of destination, unless delivering the item to any such other site corresponds with the item's intended contractual use.
- 7) We bear no liability for damages to goods arising from natural wear and tear, from unsuitable or improper use or use in breach of contract, from defective assembly or start-up, from excessive strain placed on goods or improper modification, from repair or maintenance by Buyer or a third party, or that arise from improper or careless treatment, insofar as any such damage is not traceable to our own fault.
- 8) Buyer's more extensive claims are excluded, and especially claims to compensation for damages in lieu of delivery and to replacement of other direct or indirect damage, including collateral or consequential damage, regardless of the legal grounds for the same. The foregoing provision shall not apply:
- a) if we fraudulently conceal legal or material defects or bear mandatory liability based on guarantee that we have assumed for the nature of goods;
- b) if damage is based on intent or gross negligence by us or by our statutory representatives or vicarious agents or is based on negligent breach of essential contractual obligations by ourselves or one of the aforementioned persons;
- c) if culpable breach of an obligation by us or by our statutory representatives or vicarious agents has caused physical damage or injury to health.
- However, the amount of our requirement to perform replacement is limited to foreseeable damages that are typical for the contract in the event of simple negligence.
- 9) The provisions set out under § 8 above apply accordingly apply for Buyer's direct claims against our statutory representatives or vicarious agents.
- 10) We are subject to the liability provisions under Sections 478 & 479, German Civil Code, as we act as material or parts supplier vis-à-vis Buyer.
- 11) All of Buyer's claims arising from complaints, including claims to damages regulated under foregoing § 8 and § 9, shall fall under the statute of limitations one year following delivery of the goods to Buyer. The period of limitations for replacement parts and repairs amounts to 1 (one) year, and shall continue in effect at least until expiry of the original statute of limitations for the delivered item. The time period for liability for defects in the delivered item shall extend by the duration of the interruption of plant operations caused by repair or remedying of defects.
- § 6 Payment**
- 1) Invoices are due for payment in compliance with respectively covenanted terms and conditions of payment. Buyer shall enter into arrears, and we may assert interest on arrears and any more extensive damages caused by arrears, if an invoice is not paid within the covenanted period allowed for payment. If Buyer defaults payment, then we are entitled to charge interest on arrears that is 8 % above the respective base interest rate as published by the German Central Bank (Deutsche Bundesbank). We are entitled, in individual instances, to furnish proof of higher damages.
- 2) We are entitled to request advance payments, to retain outstanding deliveries or to cancel the contract if Buyer's ability to pay deteriorates between the date of order confirmation and the date of delivery, or if we subsequently become aware of existing reservations concerning Buyer's ability to pay.
- § 7 Retention of title**
- 1) Delivered goods remain our property until complete payment of our demands from the business transaction with the purchaser.
- 2) Goods shall always be processed or used by the purchaser for us: we are the manufacturer as defined in section 950 of the German Civil Code. If the product manufactured by the purchaser is worth more than double that of the goods delivered by us and used in the manufacture of this product, we are joint manufacturers with the purchaser. In this case, our ownership of the product shall be restricted to the proportion of the product corresponding to the value of the goods delivered by us. The value of our goods is the net amount stated in the invoice, the value of the produced goods shall be their production costs.
- 3) The purchaser reserves the right, in the normal course of business, to sell goods and products which are our property or joint property. The purchaser's claims for payment from said sales is hereby ceded to us. In the case of sale of products, in which we only have joint ownership, the ceding of rights applies only to that proportion of the payment corresponding to the proportion of the product which belongs to us.
- 4) The purchaser reserves the right to receive payment on our behalf under clause 3 insofar as the purchaser fulfils his obligations towards us and does not fall into default.
- 5) The purchaser shall insure the goods belonging to us and the products, over which we have property rights, at his cost.
- 6) If goods belonging to us or the products, over which we have property rights, are seized from the purchaser by third parties, the purchaser shall inform us thereof forthwith and shall notify the third party of our property rights. In the case of distraint of claims ceded to us by third parties, the distraint and transfer agreement shall be sent immediately to us. All costs incurred as a result of the enforcement orders shall be met by the purchaser.
- 7) Any assertion of rights of retention, repossession of goods or attachment of goods that we may exercise does not intrinsically constitute cancellation of contract. In the event of repossession, we are entitled to exploit the goods in the best possible manner at our own discretion following prior warning and setting of an adequate time period. The revenues from any such exploitation shall be set off against our claims after deduction of adequate administrative costs.
- § 8 Third party commercial copyright**
- 1) Should the goods delivered by us breach third party patents, utility patents, trade marks or copyrights, we release the purchaser and his customers from claims for compensation in accordance with the following conditions. The obligation to release is restricted by the amount of the purchase price of the goods concerned. In addition, the release assumes that the breach of rights is exclusively as a result of the goods delivered by us without connection or use in connection with other products. Furthermore, the purchaser reserves the right to return the goods purchased from us against refund of the purchase price.
- 2) If the third party claims right to forbearance, we can release ourselves from the obligation to accept returned goods by either procuring the required licences for the purchaser or by providing replacements which remove the breach of rights caused by the original delivery.
- 3) At our request, the purchaser shall accept the third party right to payment or forbearance. We shall meet the costs for legal defence.
- 4) The purchaser does not reserve the right to make further claims, in particular, for compensation.
- § 9 Place of performance, jurisdiction, applicable law**
- 1) Place of performance for all obligations arising from the delivery contract and the place of jurisdiction for all disputes arising from the business relationship shall be Stuttgart. We also reserve the right to raise claims against the purchaser at the purchaser's place of general jurisdiction.
- 2) The contractual relationship is subject to the laws of the Federal Republic of Germany under exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- § 10 Concluding conditions**
- 1) Should individual conditions of these General Terms and Conditions be or become invalid, the validity of the remaining conditions shall remain unaffected thereby. The invalid condition shall be replaced by a condition which comes as close as commercially possible to the invalid condition.
- 2) Different contractual agreements require the written form. Without the written form, such agreements are invalid.