

General Terms and Conditions of Business

1. Scope of validity

The following conditions are the exclusive basis for all offers and agreements; any deviating conditions set forth by the ordering party which are not recognised in writing are non-binding.

2. Awarding of a contract

All agreements only become binding upon written confirmation by the supplier. The same applies to any supplements, changes and additional agreements. The ordering party is responsible for the accuracy of the documentation which he must supply – such as (in particular) drawings, calibres and samples. As a rule, initial samples are supplied subject to charge. Any offers and illustrations - in addition to dimensions and weights - are non-binding. The general specifications, drawings, illustration and technical specifications which comprise the documentation indicated in catalogues, price lists or as part of the offer are sector-typical approximations – unless these were expressly described in the order confirmation as binding.

In the event of any objections to the written order confirmation or for the confirmation of additional agreements, the ordering party must immediately notify the supplier (within max. three business days). Any failure to comply with deadlines is charged to the ordering party.

3. Prices

The prices indicated in our proposal and/or our order confirmation apply to all supply contracts. These are considered (insofar as nothing to the contrary is expressly agreed) ex factory and do not include packaging, freight charges, postal charges, insurance and any other transport costs. The VAT is calculated in addition to the base price. If a significant change occurs in certain cost factors – such as particularly the costs for wages, preliminary material or freight - the agreed price can be adjusted according to the influence exerted by the significant cost factors to the appropriate extent.

For small-scale orders (up to a max. net merchandise value of EUR 150.00) we reserve the right to charge a processing fee of EUR 15.00.

4. Delivery

The agreed delivery period is considered approximate. It begins with the day the order confirmation is sent and is considered maintained if the merchandise has left the plant/warehouse at the agreed time or (if it cannot be sent) with the day of the statement of readiness to deliver to the ordering party.

The delivery period is extended by appropriate intervals upon the occurrence of unforeseeable events which the supplier could not prevent despite the reasonable due diligence displayed by him according to the circumstances of the individual case – even if these occur for the preliminary supplier – insofar as these have significant influence on the completion or delivery of the object to be supplied.

These include (particularly) actions by official agencies, interference with operations, collective action, delays in the delivery of raw and auxiliary materials as well as the rejection of a workpiece. If the aforementioned events render delivery or service provision impossible, the supplier is released from the obligation to supply without the ordering party being able to demand damages compensation.

If the aforementioned hindrances occur for the ordering party, the same legal consequences apply to his obligation to accept the goods.

The contractual partners are obligated to immediately notify the other partner of any obstacles of the aforementioned nature.

In the event of a delay in delivery, the ordering party must grant the supplier an appropriate grace period (at least two weeks).

5. Packaging

Packaging slats, paper and carton packaging will not be taken back.

6. Delivery and transfer of risk

The risk is transferred – even for deliveries free of transportation charges – to the ordering party when the goods have been handed over to the agent in charge of shipping or loaded onto the supplier's vehicle. If delivery is delayed for reasons which lie within the control of the ordering party or its auxiliary agents, the risk is transferred to the ordering party already on the day of the statement of willingness to deliver. The supplier is authorised yet not obligated to insure delivered goods in the name and on the account of the ordering party. In the event of transport damage, the ordering party must immediately initiate the recording of the circumstances of the case by the agencies duly in charge and notify the supplier.

7. Payment conditions

All invoices are payable within 30 days of the invoice date without deduction, insofar as nothing to the contrary has been agreed in writing. In the event of payment within 8 days, a 2% discount will be granted insofar as the ordering party is not in arrears where the settlement of outstanding payments is concerned.

In the event of a delay in payment based on the agreed target date, the supplier is authorised to bill late interest in the amount of 5 % above the corresponding discount rate imposed by the German Federal Reserve, and this does not require an express warning. Any non-recognised counter-claims (or such contested by the supplier) can neither be offset by the ordering party nor may payment be withheld on these grounds.

The payments must be made in Euro, insofar as no other currency has been agreed to.

Bills of exchange are only accepted for fulfilment purposes as well as only upon prior agreement and under the condition of their discountability. Discount allowances are billed from the due date of the bill amount forward. A warranty for the correct submission of the bill of exchange and for the filing of a protest against the bill of exchange is excluded.

If, following the conclusion of a contract, it becomes apparent that our claim to payment is jeopardised by a deficiency in performance on the part of the buyer, we are authorised to demand collateral within an appropriate interval. If the buyer does not fulfil this request, we are authorised to withdraw from the contract.

If an outstanding invoice amount remains unpaid despite two warnings, all outstanding invoice amounts become due immediately.

The supplier has the right to demand immediate payment.

8. Minimum order quantity/margins of error

The delivery is made for lack of a deviating agreement in the delivery units apparent from the order documentation.

Lower order amounts require a separate agreement.

Partial deliveries in a reasonable scope are permissible.

If special designs are ordered, the margin of error for the quantities delivered lies at +/-10%.

9. Dimensions, weights, precision

The specified dimensions and weights are always to be viewed as approximate and in no way binding. The illustrations in the sample books are not binding in terms of the design of the goods.

The supplier reserves the right to make design changes at any time – also in the context that upon the re-procurement of a previously-supplied item, no notice of changes made in the meantime is required.

10. Industrial property rights

The supplier reserves the copyright and title right to illustrations, drawing and any other documentation; these may not be made accessible to any third parties without the supplier's permission, and must be returned to him promptly upon request.

If during the production of the goods according to drawings, samples or any other specifications made by the ordering party, industrial property rights held by third parties were violated, he releases the supplier from all claims.

11. Tools

Insofar as a special tool is required for the performance of the order, the amount billed for this purpose to the ordering party always comprises a certain share of the total production costs of this tool. By paying this share of the tool costs, the ordering party does not purchase any right to title (even of a partial nature) of this tool.

Rather, this tool always remains the exclusive property of the supplier.

Tool costs become due and payable upon the submission of initial samples.

12. Retention of title

The supplier retains the title of the supplied goods until all demands resulting from this business relationship are fulfilled – particularly those arising from the current-account relations with the ordering party, including those which would arise in the future. Any handling or processing of the goods subject to retention of title (the end product) is performed by the ordering party for the supplier, without the latter being subject to any obligations as a result thereof. In the course of the processing, attachment, combination or commixture of these goods with other goods not belonging to the supplier, the supplier is entitled to the share of co-ownership of the new object arising from this action – in the ratio: value of the goods subject to retention of title compared to the other goods processed at the time of processing, attachment, combination or commixture. If the ordering party procures the sole title to a new item, the contractual partners agree that the ordering party grants to the supplier of the new item co-ownership of this item in the share of the value of the processed, attached, combined or commingled goods subject to retention of title and stores this item free of charge to the supplier.

The supplier is authorised to inspect the goods subject to retention of title under his ownership at any time at the site where they are located. The ordering party is obligated to insure the goods and the end product against the risk of fire and theft, and verify the conclusion of such an insurance policy upon the supplier's request. The ordering party already now cedes as collateral to the supplier all outstanding payments to the insurer which arise from the insurance of the goods and the end product.

The ordering party is authorised to sell the goods in the course of normal and legitimate business dealings. He is not authorised to dispose of the goods or the end product in any other form – particularly concerning their garnishment or the transfer of their ownership for collateral purposes.

The ordering party already now cedes in their entirety as collateral to the supplier all claims and rights arising from the re-sale of the goods or on other legal grounds – especially insurance and illicit acts involving the goods. If the goods subject to retention of title are sold by the ordering party – after their processing/combination – along with any other goods not belonging to the supplier, the ordering party already now cedes the outstanding payments arising from the sale in the amount of the value of the goods subject to retention of title, including all ancillary rights and priority before the rest. The supplier hereby accepts this cession.

The supplier authorises the ordering party to collect the ceded outstanding payments on the supplier's account but in his own name. The collection authorisation can be revoked if the ordering party does not properly fulfil his payment obligations.

Upon the supplier's request, the ordering party must notify the supplier of the parties owing the outstanding payments ceded to the supplier and give the information necessary to assert these rights, as well as hand over the necessary documentation and permit the inspection of his books and invoices. In addition, at the supplier's request, the ordering party is furthermore obligated to announce to the owing party the cession of the outstanding payment to the supplier.

If the ordering party is in arrears – particularly if payments are ceased and/or an application is filed for the initiation of insolvency proceedings and/or these proceedings are in fact initiated – as well as any other settlement proceedings involving the ordering party's assets, whether in court or out of court – the right to re-sale, processing or re-creation as well as to attachment or commingling of the goods as well as their end product expires. In this case, also the authorisation to collect the ceded outstanding payment expires. The supplier is then authorised to demand the immediate handover of any goods not yet re-sold. If this handover claim is asserted, the ordering party hereby irrevocably permits the supplier to re-claim the goods which are the supplier's property and for this purpose, to enter the premises where the goods are located. In addition, the supplier is authorised to demand the cession of the claims on the part of the buyer to hand over the goods toward third parties. The assertion of the right to retention of ownership does not constitute a withdrawal from the contract. The re-claiming as well as in the garnishment of the goods by the supplier likewise does not constitute withdrawal from the contract.

The supplier is obligated to release the collateral to which he is entitled – to the extent that their value exceeds by more than 20% the collateral to which he is entitled, insofar as these remain as yet outstanding. For the valuation of collateral, its realisable value (collateral value) is the major factor.

13. Sales aids, loaned material

All materials – sales aids, furniture items, racks, ad media and other demo materials are only on loan from us and remain our property.

All objects provided by us on loan may only be used to promote the sale of our products and must be handled appropriately as well as maintained in sound condition by their borrower. Insofar as no agreement is made which deviates in its individual conditions, we are authorised at any time to demand the handover of the objects belonging to us.

14. Warranty

Liability for defects on the supplied goods requires that the buyer has properly fulfilled the obligation incumbent upon him to inspect the goods and report any defects (according to § 377 HGB).

Complaints of any nature whatsoever will only be acknowledged following their immediate written notification, no later, however, than 8 days after the receipt of the goods – unless the defect was not recognisable even in the course of careful inspection.

If the supplied goods are defective or otherwise lack warranted characteristics, the supplier – at his own discretion and under the exclusion of further warranty claims by the ordering party – has the right to perform subsequent repairs/revisions to the goods or supply a replacement if the return of the goods subject to the complaint occurs as agreed.

For defects which arise as a result of unsuitable or inappropriate use, faulty assembly by the buyer or third parties as well as by natural wear or faulty/negligent handling, no warranty is granted. The same applies to the results of any modifications which are inappropriate and have been made without the supplier's consent, as well as to corrective maintenance work performed by the ordering party or by third parties. For breakage in the course of transport, no replacement will be granted.

If the subsequent repair/revision or supply of a replacement fails following the elapse of an appropriate grace period, the ordering party can demand the cancellation of the contract.

For repair/revision work and the supply of replacements, the supplier is liable to the same extent as for the originally supplied item; the original warranty period applies to all replacements supplied.

15. Other claims to compensation

Damages compensation resulting from delay, impossibility of service provision, violation of ancillary contractual obligations resulting from fault, from fault upon the conclusion of the contract and from illicit acts are excluded – unless they arise from malice or gross negligence on the part of the supplier or his managerial employees.

Liability is also limited (for violations resulting from gross negligence) to the compensation of the damage which was foreseeable at the time of the conclusion of the contract.

16. Place of fulfilment and jurisdiction

The place of fulfilment for all obligations resulting from the contractual relationship is the supplier's headquarters. The court in the jurisdiction of the supplier's headquarters is the legal venue for all legal disputes – also in the context of a proceeding involving a bill of exchange or cheque if the ordering party is a merchant who has been entered as such in the commercial register, a legal entity under public law or in terms of special assets subject to public law. The laws of the Federal Republic of Germany are applicable to all contractual relations.

17. (Partial) invalidity clause

If individual provisions of this contract should be ineffective or lose their legal effectiveness due to a subsequent circumstance, this does not impact the legal effectiveness of the remaining provisions. To replace the ineffective contractual provisions, an appropriate rule should apply which the parties would have agreed to had they been aware of the ineffectiveness of the originally-agreed rule.