

§ 1 general terms / area of validity

1. Our terms and conditions of purchase are exclusively valid; contradictory terms or deviating terms of customers from our terms and conditions of sale will not be accepted, only in case we have accepted and confirmed them in writing. Our terms of sale are valid then too, when we deliver directly our customers in knowledge, that there are contrary or deviating terms from our terms and conditions of sale.
2. All arranged agreements between us and our customer for the execution of this contract, are written in this contract.
3. Our terms and conditions of sale are only valid for businessmen / contractors in accordance with the German civil law, § 310 I BGB.

§ 2 offer / offer documents

1. Our offers are always without obligation. Prior sale of sorts and quantities, which we declare as available, are subject to changes without notice.
2. Verbally side agreements, amendments and supplements to the terms and conditions of contracts are only valid legally if we confirm them in writing.

§ 3 prices / conditions of payment

1. As far as there are no other details of the order confirmation, our prices are binding and calculated ex work, packaging excluded; packaging will be charged separately.
2. The legally valid added tax (VAT) is not included in our prices. The VAT will be separately indicated in accordance with the legal valid tax on the day of the invoice.
3. All rights are reserved, to deliver only after payment in advance or by payment on delivery.
4. As far as there are no other details of the order confirmation, the price of purchase has to be paid within 8 calendar days from the date of the invoice with 2 % cash discount for prompt payment, or within 30 days net (without deduction). In case of delay of payment we will charge 8 % interests over the basic rate of interests. All rights are reserved to claim legally further damages.
5. Exchanges or checks will be accepted just for the compliance, the contract partner is responsible for charges of discounting or collections.
6. The customer has offset rights, in case his contrary claims have been confirmed legally, or they are undisputed, or they have been accepted by us. Furthermore the customer is entitled to claim a right of retention, as long as his contrary entitlement is based on the same contract.

§ 4 delivery dates

1. Delivery dates and deadlines are generally non binding. In case a certain delivery deadline has been expressly arranged, it is a condition that the start will clear in advance all technical questions.
2. The compliance of delivery dates and deadlines is a condition for the compliance in time of the customer sending all the required documents and the ment of the contractual obligations of the customer, especially the ment of the arranged conditions of payment. In case these conditions will not be led, or the customer causes after the conclusion of the contract amendments or modifications of the ordered products, the delivery dates and deadlines will be executed in adequate time.
3. Delivery dates and deadlines – stipulated dates/terms too – are only valid, as far as there are no unexpected obstacles / barriers, which are not our intention or the intention of our suppliers, for example like an industrial strike, breakdown / factory operating trouble or shortage of raw materials, transport trouble, or the failing of authority permissions and other permissions necessary for the execution of deliveries of third parties and similar circumstances. During the time of these impediments and during an adequate deadline we will not be in default or be in delay.
4. If the customer is in acceptance delay or in case he causes a breach of duty we are entitled to claim and require replacement for caused damages, including additional expenditures. We are entitled to claim further requirements.
5. In case the conditions of number 3 are present, the customer is responsible for the danger of a casual downfall or the casual degradation of the purchase object at the time, when he caused the delay of acceptance or the debtor's delay.
6. In case of unexpected circumstances in accordance with the foregoing subparagraph, if the commercial relevance or the content matter of the performance has been significantly altered, we are entitled to withdraw from the agreement contract. In this case the customer has just the granting for backing claims, - further claims, especially requirements for damage compensation are excluded.
7. We are entitled to provide partial deliveries.
8. In case we deliver in delay, the customer is entitled to withdraw from the agreement contract only in case he gave us an adequate grace period for the delivery and we were not able to deliver within this deadline. Further claims for delay, especially legal claims for damage compensation are excluded, as long as we have not caused the delay intentionally or acted grossly negligent. The replacement for damages is limited to the expected typical damage caused, intention is excluded.

§ 5 passing of risk / forwarding / shipment charges

1. The customer is responsible at its own costs for the forwarding/shipment and for the risks. The risk is his responsibility, when the goods/products have been transmitted to the carrier/freight forwarder (transport company), but not later than when he left our factory or by direct delivery of our suppliers/distributors when they left their warehouse.
2. We assume no responsibility for damages or losses of the goods/products caused during the transport. The decision for the transport route and for the mode of shipment is based on the own consideration, without liability for low cost/cheaper shipment, as long as there is no specific instruction for the transport/shipment.
3. On request of the customer we will provide the delivery with an insurance. Insurance charges are responsibility of the customer.

§ 6 liability for defects

1. Claims for defects of the customer request, that the customer himself has to inspect accurately the goods and has to notify the defects in accordance with the regulations in § 377 HGB, the German trade code. In case of transport damages by delivery of the products a confirmation has to be requested from the freight forwarder / forwarding agent. Apparent defects, like for example differences in quantities, has to be notify by the customer to us within 5 days after receipt of goods. Later claims will be not accepted.
2. We assume no liability that the ordered products are designated for the expected purpose or use of the customer.
3. In case of a defect of the purchase object we are entitled in our own selections to remedy deficiencies / for the correction of faults or to deliver new products without defects.
4. In case the supplementary performance fails, the customer is entitled in his options to request the cancellation / withdrawal from the contract or to request a reduction.
5. We assume liability in accordance with the legal regulations, as far as the customer requests claims for damage compensation, which result from malice or gross negligence, including malice and gross negligence of our representatives or performing agents.

6. As far as we have not committed an intentional violation of the contract the liability for damage compensation is limited on the expected, typical caused damage.
7. Liability for culpably which caused damage of life, body and health remains unaffected.
8. As far as nothing aforementioned is ruled differently, liability is excluded.
9. The statute of limitations for claims for defects starts from 12 months after the change of passing of risks.

§ 7 joint and several liability

1. A continuing liability for damage compensation as arranged in § 6 – without consideration of the legal status of the expected claim – is excluded. This is particularly valid for claims for damage compensation based on culpability by contract formation, or by delictual claims for compensation of damage in accordance with § 823 BGB, the German civil code.
2. A limitation of the paragraph 1 is valid too, when the customer instead of a claim for damage compensation or instead of gaining the service / performance requests compensation for useless charges / expenses.
3. As far as the liability for damage compensation is out of question or limited for us, the same is valid for the personal liability for damage compensation of our employees, workers, assistants, representatives and performing agents.

§ 8 reservation of title (ROT)

1. We reserve the owner rights of the object of purchase until all the payments due to the contract of delivery have been fulfilled. In case of contravention of contract (of the customer), like especially delayed payment, we are entitled to take the goods back. Taking the goods back is legally for us a withdrawal from the contract. After the retraction of the goods we are entitled to utilize them and to counterbalance the proceeds in accordance with the liabilities of the customer, deducting adequate utilization (realization, sale) costs.
2. The customer is obliged, to handle the object of purchase with care: it is his liability to insure at his own costs the object of purchase against damages by fire, water and theft sufficiently to the replacement value.
3. In case of garnishments or other interventions of third parties the customer has to inform us immediately, so we can take legal action in accordance with § 771 ZPO, the German civil procedure code. In case a third party is not able to refund to us the judicial and extra judicial charges, the customer is responsible for the financial loss.
4. The customer is allowed to sell the object of purchase further in the ordinary course of business. He conveys by now all the assigned accounts amounting to the sum of the final amount (including VAT) to us, which he gained selling to purchaser or third parties, it makes no difference, if the object of purchase has been manufactured or not. The customer is entitled to collect the claims also after the conveyance / assignment. Our right to the direct collections of claims will remain unaffected. We give a guarantee, that we will not collect the claim, as long as the customer will execute the liability payments resulting from proceeds of sale and especially if there is no application / request for judicial arrangement proceedings, insolvency proceedings and in case of no suspension of payments. Is this thou the case, we will require, that the customer gives us the information of assigned accounts and the debtors, and all the necessary information and documents/records and details for the collection and that he notifies the assignment/conveyance to the debtors (third parties).
5. The utilization or modification of the object of purchase by the customer will be done for us. In case the object of purchase has been manufactured with other products, which do not belong to us, we acquire joint property on the new object, the relation of ownership is based on the value of the object of purchase (final invoice amount, including VAT) to the manufactured object at the time of utilization/modification. The same is valid for developed manufactured objects like for delivered objects of purchase with reservations.
6. In case the object of purchase has been manufactured and mixed inseparably with other objects which do not belong to us, we acquire joint property on the new object, the relation of ownership is based on the value of the object of purchase (final invoice amount, including VAT) to the mixed object at the time of the mixture. In case the mixture of products is so much extended, that the object of the customer has to be considered as a main issue, the agreement is, that the customer conveys us joint property proportionally. The customer keeps the developed sole ownership or joint property safe for us.
7. We give the guarantee, to release on request of the customer the collateral securities, in case we obtain more than 10 % of the real performance of our claims. We decide about the release of collateral securities.

§ 9 place of jurisdiction / place of fulfilment

1. Place of jurisdiction in matters of legal competence is the court in Wipperfürth or the tribunal of Cologne. Nevertheless we are entitled to take a legal action at the location of the customer.
2. The laws of the German Federal Republic are legally valid. The enforcement of UN – sale of goods law is excluded.
3. As far as there are no details regarding the confirmation of order, Lindlar is the place of fulfilment for all reciprocal rights and obligations.
4. In case one of the forementioned clause is legally void or will become void, this does not affect the other clauses. Instead of the void clause both parties sign on, to find and agree a legal solution, which is most close to the economic purpose of the void clause.

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