



General Terms and Conditions of Delivery and Payment

I. Scope, offers

1. These General Terms and Conditions of Delivery and Payment shall apply exclusively, even if not specifically mentioned, to all present and future contracts with companies, legal entities under public law as well as special funds under public law regarding deliveries and other services, including service contracts and the delivery of non-fungible goods. In case of direct sales ("Streckengeschäfte"), the producer's conditions as laid down in its price list shall apply in addition to these conditions. The Buyer's purchase conditions shall not be binding, even if we do not expressly object to them again after their receipt.
2. Our offers are not binding. Offers and orders by the Buyer, oral agreements, promises, assurances and guarantee statements made or given by our staff in connection with the conclusion of the contract shall not be binding without our written confirmation. Telefaxes and e-mails may be used to provide written confirmation.
3. In case of doubt, the latest version of the Incoterms shall be decisive for the interpretation of trade clauses.
4. When making deliveries to other EU member states, the Buyer must inform us of his VAT identification number prior to conclusion of the contract.

II. Pricing

1. Unless otherwise agreed to, the prices and terms in our price lists valid when the contract is concluded apply EXW supply plant or warehouse. Goods are invoiced "gross for net".
2. Should taxes or other external expenses included in the agreed price change or be added more than four weeks after conclusion of the contract, we shall be authorized to modify the price by the corresponding amount. This also applies to direct sales if our supplier's prices change. It does not apply if the change in costs was concretely foreseeable. This provision shall apply accordingly in the case of framework agreements. The price increase is restricted to the actual change in cost of the relevant pricing item and will be communicated to the Buyer immediately. The Buyer is entitled to extraordinary termination of the framework agreement and to withdraw from the affected individual contract within two weeks of receiving notification, under exclusion of further rights.

III. Payment and offsetting

1. Unless otherwise agreed upon or stated in our invoices, payment shall be made immediately after delivery and without discounts so that we can dispose of the sum on the due date. Any costs for the payment transactions shall be borne by the Buyer. The Buyer will be in default of payment at the latest 10 days after payment is due, regardless of whether we send a reminder. The Buyer may only offset claims with claims that are undisputed or have become legally binding. The Buyer is only entitled to rights of retention insofar as they are based on the same contractual relationship.
2. If the payment term is exceeded and/or the Buyer defaults in payment, the Buyer will be liable to pay interest at 9% points above the basic interest rate, unless higher rates have been agreed upon. The right to claim an additional amount of damages caused by default remains reserved.
3. If, after conclusion of the contract, it becomes evident that payment is jeopardized by the Buyer's lacking ability to pay, or if the Buyer is in default with a considerable portion of the amount due, or if other circumstances arise which show a significant deterioration in solvency after conclusion of the contract, we shall be entitled to make use of the rights under Section 321 BGB (German Civil Code). We shall also be entitled to make due any and all of the receivables resulting from the same legal relationship which are not yet due and to revoke existing direct debit authorizations in accordance with Section V. 5.
4. Any discounts that may have been agreed upon always relates to the invoiced value excluding freight and will only be granted if and insofar as the Buyer has fully paid all amounts due at the time of the discount. Unless otherwise agreed, discount periods shall begin with the date of the invoice.

IV. Deliveries, delivery periods and terms

1. Our delivery obligation is subject to our own correct and timely receipt of supplies, except if we are responsible for the incorrect or delayed delivery.
2. Indications regarding delivery times are approximate. Delivery terms that have been expressly agreed upon shall commence on the date of our order confirmation and shall only apply on condition of timely clarification of all details of the order and timely fulfillment of all obligations by the Buyer, such as provision of all official certificates, provision of letters of credit and guarantees or payment of advance payments. The sole agreement on Incoterms (International Commercial Clause) does not constitute a fixed-date delivery.
3. Compliance with expressly agreed delivery periods and terms is determined based on the time of dispatch from the production site or warehouse.

They shall be deemed to have been complied with upon notification of readiness for dispatch if the goods cannot be dispatched in time through no fault of ours. Exceeding a delivery date confirmed subject to reservation shall not constitute a delay.

4. If the delivery is delayed, the Buyer shall only be entitled to the rights under Section 323 BGB if the Buyer has granted us a reasonable grace period and has – in deviation from Section 323 BGB – combined it with a declaration of refusal of service after the expiry of the grace period. After unsuccessful expiry of the grace period, the Buyer may withdraw from the contract only insofar as the contract has not yet been fulfilled, except if partial deliveries that have been made cannot be used by the Buyer. In such cases, claims for damages shall be governed by Section XI of these terms and conditions.

5. In cases of force majeure, the contractual obligations of both parties shall be suspended. The dates and terms for the fulfillment of contractual obligations shall be postponed in accordance with the duration of the event. This also applies if we are already in default during the occurrence of force majeure. Cases of force majeure include, in particular, industrial disputes in our own and third-party plants, serious traffic obstructions, substantial mechanical breakdown, sovereign measures and other circumstances for which no party is responsible. The other contracting party must be immediately notified of the force majeure event. Each of the contracting parties is entitled to withdraw from the contract no earlier than after a six-week period of the force majeure event, under exclusion of any obligation to pay compensation in this respect. In the event of such a withdrawal, the Buyer shall pay the purchase price attributable to the part of the delivery that can still be fulfilled and reimburse us for our expenses. If the Buyer has a justified interest in refusing the partial delivery, then the Buyer shall only pay our expenses.

6. The Buyer undertakes to meet the safety and reliability requirements issued by the German customs service for certification as an "Authorized Economic Operator" (AEO). Unless the Buyer holds or has applied for recognition as an Authorized Economic Operator, he undertakes to submit to us a separate declaration of commitment to compliance with the safety and reliability requirements, drafted in accordance with the customs service model. The Buyer undertakes to inform us immediately if compliance with the safety and reliability requirements is violated by him or by the auxiliary persons employed by him within the scope of the performance of the contract, or if their compliance is no longer ensured. We are entitled to withdraw from the relevant contract if the Buyer does not fulfill the safety and reliability requirements for recognition as an Authorized Economic Operator, if the Buyer does not issue a security declaration to us upon request, or if the Buyer or the auxiliary persons employed by him within the scope of the performance of the contract commit culpable serious or repeated violations of these safety and reliability requirements.

V. Retention of title

1. All delivered goods remain our property (reserved goods) until all claims, in particular also the respective balance claims to which we are entitled within the scope of the business relationship (balance reservation) have been fulfilled. This condition shall apply to any future or conditional claims, for example from acceptor bills of exchange, and if payments are made on specially specifically identified receivables. This balance reservation expires definitively with settlement of all claims still outstanding at the time of payment and covered by this balance reservation.

2. Processing and treatment of the goods subject to retention of title shall be carried out for us as the manufacturer within the meaning of Section 950 BGB without any obligation on our part. The treated and processed goods shall be deemed goods subject to retention of title within the meaning of V/1. If the goods subject to retention of title are processed, combined or mixed with other goods by the Purchaser, we are entitled to joint title to the new item proportionally to the ratio of the invoiced value of the goods under retention of title to the other goods used. If our ownership expires through combination or mixing, the Buyer hereby transfers to us his ownership rights to the new goods or item in proportion to the invoice value of the goods subject to title of retention and stores them for us free of charge. Our rights of co-ownership are considered as goods subject to retention of title within the meaning of V/1. To the extent to which we lose (co-)ownership of the goods through their use for the performance of contracts for work and services – for example through combination with a plot of land or installation in a building – the Buyer hereby assigns to us the claim against the customer in accordance with V/4.

3. The Buyer may resell the goods subject to retention of title only within the normal course of his business and in compliance with his normal terms and conditions of business, provided he is not in default of payment and also that any rights resulting from resale will be transferred to us pursuant to V/4 through V/6. The Buyer shall not be entitled to dispose of the goods subject to retention of title in any other way.

4. The claims from the resale of the reserved goods are hereby assigned to us along with all securities which the Buyer acquires for the claim. Such claims shall serve as our security to the same extent as the goods subject to retention of title. If the reserved goods are sold by the buyer together with other goods not sold by us, the claim from the resale is assigned to us proportionally to the ratio of the invoice value of the goods subject to retention of title and the invoice value of the other sold goods. If goods in which we have co-ownership shares pursuant to V/2 are resold, a portion corresponding to our co-ownership share shall be assigned to us.

5. The Buyer shall be entitled to collect any receivables resulting from the resale of goods subject to retention of title. This right shall expire if withdrawn by us, but at the latest in the event that the Buyer defaults in payment, fails to honor a bill of exchange or files for bankruptcy. We will only make use of our right of revocation if after conclusion of the contract it becomes apparent that our claim for payment from this or from other contracts with the Buyer is endangered by his lack of solvency. Upon our request, the Buyer is obliged to immediately inform his customers of the assignment to us and to hand over to us the documents required for collection.

6. The Buyer must inform us immediately of any seizure or other attachments by third parties. The buyer shall bear all costs incurred to nullify the seizure or for the return transport of the goods under retention of title, insofar as they are not reimbursed by third parties.

7. If the Buyer defaults on payment or if he does not honor a bill of exchange when due, we are entitled to take back the reserved goods and, if necessary for this purpose, to enter the Buyer's premises, and sell the goods under retention of title as best possible in relation to the purchase price. The same applies if it becomes apparent after conclusion of the contract that our payment claim is endangered. Taking the goods back does not entail withdrawal from the contract. The provisions of the Insolvency Statute remain unaffected.

8. If the invoice value of the existing securities exceeds the secured claims including ancillary claims (interest, costs, etc.) by more than 50 percent in total, we are, at the request of the Customer's, obliged to release securities of our choice.

9. If the retention of title under this Section V is not effective under the law applicable where the goods are located, a provision corresponding to this Section V shall be deemed as having been agreed upon. If the Buyer's cooperation is required to establish such rights, he shall take all measures necessary to establish and maintain such rights.

VI. Grades, sizes and weight

1. The grades, types and dimensions of the goods shall be determined according to standards agreed upon when concluding the contract; in the absence of these, according to DIN and EN standards in force upon conclusion of the contract and, in the absence of these, according to normal business practice. References to standards and similar regulations, to factory test certificates and similar certificates as well as information on grades, types, dimensions, weights and usability of the goods are no assurances or guarantees, nor do they constitute declarations of conformity or corresponding marks such as CE and GS.

2. Weighing as carried out by us or our supplier establishes the weights. Proof of weight is provided by presenting the weighing slip. Wherever legally permissible, weights can be calculated according to DIN standards without weighing. We are entitled to determine the weight without weighing according to standard (theoretical) plus 21/2% (commercial weight). The number of units or bundles stated in the delivery notice is not binding for goods that are counted by weight. Insofar as an individual weighing is not carried out usually, the total weight of the delivery shall prevail. Differences to the calculated single weights shall be distributed proportionally.

VII. Acceptance inspections

1. If an acceptance inspection has been agreed upon, it may only be carried out at the supplier plant or our warehouse immediately after we have given notification of readiness for such acceptance inspection. The personnel-related costs in connection with such inspections shall be borne by the buyer; the material costs in connection with such inspections shall be charged to the buyer according to our price list or the supplier plant's price list.

2. If, through no fault of our own, an acceptance inspection is not carried out, is not carried out in a timely manner or is not fully carried out, we shall be entitled to invoice and ship the goods or store them at the buyer's expense and risk without an acceptance inspection.

VIII. Dispatch, transfer of risk, packaging, partial delivery

1. We are entitled to choose the route and mode of dispatch, as well as the forwarding agent and the carrier.

2. Goods notified as ready for dispatch in accordance with the contract must be requested immediately, otherwise we are entitled, after a reminder, to invoice them and dispatch or store them at our discretion and at the Buyer's expense and risk and to take all measures necessary to preserve the goods. In this case, the purchase price is due 30 days after the invoice date.

3. If, through no fault of our own, transport on the intended route or to the intended location in the intended time becomes impossible or significantly more difficult, we shall be entitled to deliver by another route or to another location; the additional costs incurred shall be borne by the Buyer. The Buyer will be given the opportunity to express his preferences beforehand.

4. Upon transfer of the goods to a forwarding agent or carrier, and no later than when the goods leave the warehouse or the supplying plant, the risk, including the risk of confiscation of the goods, passes to the Buyer in all transactions, including prepaid and free deliveries. We shall provide insurance only under instruction by the Buyer and at his expense. The duties and costs related to unloading shall be borne by the Buyer.

5. The goods are delivered unpacked and without protection against rust. In cases where it is standard business practice, we deliver the goods packed. We will provide packaging, protective and/or transport accessories based on our experience and at the Buyer's expense. They will return to us at our warehouse. We will not bear the Buyer's costs for return transport or disposal of the packaging.

6. In the event of transport damage, the buyer must immediately arrange for a factual report with the cooperation of the carrier and send it to us.

7. We are entitled to make partial deliveries to a reasonable extent. We shall also be entitled to reasonably exceed or fall short on the agreed delivery quantities. The indication of an "approx." quantity entitles us to over/under deliver by up to 10 %.

IX. Call-off order, ongoing deliveries

1. If the contract provides for ongoing deliveries, the Buyer shall divide the quantities and grades of the goods into approximately equal monthly shipments. Otherwise we shall be entitled to specify them at our own fair and just discretion.

2. If single requests exceed the total contractual quantity, we shall be entitled, but not obliged, to deliver the surplus quantity. We can invoice it at the prices applicable at the time of the request or the delivery. If the total quantity of call-offs falls below the contract quantity, we shall be entitled to invoice the difference and to either dispatch it at the Buyer's cost and risk or to store it at the Buyer's cost and risk.

X. Liability for defects

1. The flawlessness of our goods is determined exclusively according to the explicitly agreed quality at the time of passing the risk. We are not liable for the suitability of the goods for the customary use or a usual quality, that deviates or exceeds the contractual agreement. Irrespective of our knowledge we shall likewise not be liable for any on Buyer's side intended fitness for purpose of the goods, unless such suitability has been agreed upon in writing. Our silence upon any information with regard to the intended use of the goods does not constitute any consent from our side, even upon conclusion and performance of the contract. In the case of goods that have been sold as downgraded material, the Buyer shall not be entitled to any rights arising from material defects with regard to the stated reasons for downgrading

and such defects which could normally be expected. Goods classified as "Ila-Ware" are not subject to any warranty.

2. Quality-related defects in the goods shall be reported in writing promptly, no later than seven days after delivery. Defects that cannot be discovered within this period, even upon examination with the utmost care, shall be reported in writing promptly upon their discovery, no later than before the agreed or statutory limitation period expires, and any reworking or processing shall be immediately discontinued.

The Buyer is expressly informed that steel supplied by us may present material-related imperfections or irregularities which cannot be avoided in the manufacturing process and which, despite the utmost care, cannot always be recognized by our suppliers before delivery. Such imperfections or irregularities often become visible only during machining or forming. Therefore, the Buyer has a special duty of care and inspection in processing and forming, both before and after forming. All goods delivered by us must be carefully examined for their external condition and internal properties before further processing, installation in other objects or placement on the market.

In the event that our goods are resold, whether in processed or unprocessed condition, the Buyer undertakes to convey the aforementioned safety instructions and to impose the aforementioned duties of care and inspection on the customer or other third parties who process or work the goods according to the terms in the contract.

3. After execution of an agreed acceptance inspection of the goods by the Buyer, notification of defects which were detectable during the agreed type of acceptance inspection is excluded. If the Buyer is unaware of a defect as a result of negligence, he can only assert rights due to this defect if we have fraudulently concealed the defect or have assumed a guarantee for the quality of the item.

4. In the event of complaints, the Buyer must immediately give us the opportunity to examine the goods complained about; on request, the goods complained about or a sample thereof must be made available to us at our expense. If the Buyer does not comply with this request or other duties to cooperate, all rights related to the material defect shall lapse. In the event of unjustified complaints, we reserve the right to charge the customer with freight and handling costs, as well as the inspection costs, at normal market prices.

5. In the event of justified, timely notification of defects, we may, at our discretion, either remedy the defect or deliver defect-free goods (subsequent performance). In the event of failure or refusal of subsequent performance, the Buyer can, after unsuccessful expiry of an appropriate period, withdraw from the contract or reduce the purchase price. If the defect is not significant or if the goods have already been sold, processed or redesigned, he shall only be entitled to a reduction in price.

6. We shall only bear expenses in connection with subsequent performance in individual cases if they are reasonable, in particular in relation to the purchase price of the goods, and never in excess of 150% of the purchase price. We shall only bear further expenses in accordance with Section XI of these Terms and Conditions.

7. Further claims by the Buyer shall be governed by Section XI of these Terms and Conditions. The Buyer's rights of recourse pursuant to Sections 478, 479 BGB remain unaffected. We are not liable for contractual extensions of liability, guarantee assurances or supplementary compensation payments by the Buyer to his customers or third parties.

8. We do not accept lump sums as compensation or for damages.

XI. Restriction of liability and limitation periods

1. Insofar as the United Nations Convention of 11 April 1980 on Contracts for the International Sale of Goods (CISG) applies, the Buyer shall only be entitled to damages if we have acted culpably. In all other respects, the following provisions (in this Section XI) shall apply even if the UN Convention on Contracts for the International Sale of Goods is applicable.

2. We shall only be liable for breach of contractual and non-contractual obligations, in particular for impossibility, delay, culpa in contrahendo and tort – also for our managerial staff and other vicarious agents – in cases of intent and gross negligence, limited to typical contractual damage foreseeable when the contract was concluded. In all other respects, our liability, including for damage caused by defects consequential damage, as well as for loss of production and loss of profit, is excluded.

3. These restrictions shall not apply in the event of a culpable breach of essential contractual obligations, insofar as the achievement of the purpose of the contract is endangered, in the event of culpably caused damage to life, body and health, nor if and insofar as we have assumed the guarantee for the quality of the item sold, as well as in cases of mandatory liability under the Product Liability Act. The rules on the burden of proof remain unaffected by this.

4. Unless otherwise agreed, contractual claims against us by the Buyer arising from and in connection with the delivery of the goods shall become statute-barred one year after delivery of the goods. This period does not apply to such goods which are used for a building in accordance with their normal use and have caused its defectiveness. This shall not affect our liability for intentional and grossly negligent breaches of duty, culpably caused damage to life, body and health, as well as the limitation of recourse claims according to Sections 478, 479 BGB.

5. The period of limitation shall not start anew if the goods are repaired or replaced.

XII. Place of performance, place of jurisdiction and applicable law

1. The place of performance for our deliveries is the supplier's works for deliveries ex works and for all other deliveries our warehouse. Place of performance of the purchase price payment is the head office of our main branch. The place of jurisdiction shall be, at our discretion, the location of the head office of our main branch or of the Buyer's head office.

2. All legal dealings between us and the Buyer shall be governed by the laws of the Federal Republic of Germany, under exclusion of provisions on conflict of law, in addition to these Conditions.