

General Terms and Conditions of Delivery



1. General / Scope

1.1 The terms and conditions apply to all present and future business contracts with natural and legal persons or incorporated partnerships with whom we enter into business relations and who carry out commercial or self-employed activities.

1.2 Deviating, conflicting, or additional general terms and conditions will not be part of the contract unless agreed to in writing by us.

2. Contract Conclusion

2.1 Our offers are subject to change without notice. We reserve the right to implement reasonable technical changes as well as changes in the description details and/or weight of our products.

2.2 If a customer places an order for a product, this is deemed to be a binding declaration of intention to buy the ordered product. We reserve the right to accept the contract offer inherent in the purchase offer within two weeks after receipt. We can either accept the purchase order in writing or by delivering the goods to the ordering party.

2.3 The contract is concluded on the condition that the correct products are delivered to us on time by our subcontractors. This only applies if the defective shipment is not to be attributed to us, especially if we have concluded a congruent covering transaction with our suppliers. The customer shall be informed immediately about the non-availability of the shipment. The counter performance will be refunded immediately.

2.4 The documents belonging to the offer, such as illustrations, drawings, and specifications on weight and size shall only give approximate indications insofar as they are not expressly designated as binding.

2.5 We shall retain the right of ownership and copyright for the cost estimates, drawings, and other documents. They may not be made available to third parties. If this is not observed, we are entitled to file a cease-and-desist claim and a damage compensation claim.

3. Shipments

3.1 Our written agreement is essential for the extent of the shipment. If this written agreement is lacking, the customer's written order is essential.

3.2 Side agreements and changes require our written consent.

3.3 The delivery deadline begins with forwarding the order confirmation; however, it does not begin before the documents, permits, and releases are provided and the agreed upon payment is received from the customer.

3.4 The delivery deadline is observed if the delivery item has left the plant or the readiness for shipment is provided in writing before the deadline expires.

3.5 The delivery deadline is extended commensurately for actions which are part of work disputes, in particular strikes and lockouts, as well as previously unseen hindrances which are beyond our control, in as far as these hindrances are proven to have an influence on the production and shipment of the delivery items. This also applies if the circumstances are caused by subcontractors. The above-mentioned circumstances are also not our responsibility if they occur during an already existing default.

4. Price and Payment

4.1 The price in our order confirmation is essential. If it is lacking and the goods are delivered by us without an order confirmation, then the price in the order is essential.

4.2 Sales tax is not included in the price, unless the contrary is stated in our order confirmation, or in the order itself, if the delivery is made without an order confirmation.

4.3 If nothing else has been agreed in writing, payment is to be made within 10 days after delivery according to the terms and conditions of delivery that are valid at that time. After expiration of the deadline, the customer is in default.

4.4 During the period of default, the customer is to pay interest on the debt for the amount of 8 % above the base interest rate of the Deutsche Bundesbank. We reserve the right to prove and claim higher damages caused by default.

4.5 The customer only has the right to offset our claims if his counterclaims are legally established or recognized by us. The customer can only exercise the right of retention if his counterclaim is based on the same business contract.

5. Passage of Risk and Acceptance

5.1 The danger of accidental loss and accidental deterioration of the shipment is passed on to the customer with the delivery. In the case of sale to destination according to the customer's instructions, it is passed on to the customer with the delivery of the goods to a transport company, a carrier, or any other person or institution designated to carry out the shipment.

5.2 The same consequences arise if the customer is in default in accepting the delivery.

6. Reserving the Right of Ownership

6.1 We reserve the right of ownership for the shipment until all debt claims are settled from the current business contract.

6.2 The customer is obligated to treat the shipment with care. If maintenance and inspection work is required, the customer is to carry this out regularly at his own cost.

6.3 The customer is required to inform us immediately if a third party has access to the shipment, for example in the case of a seizure, and if there is any damage or destruction to the shipment. The customer is to report to us immediately on any change of ownership or change of address.

6.4 We are entitled to withdraw from the contract and to demand the surrender of the shipment for conduct by the customer contrary to the contract, in particular for payment default or violating duties according to Number 6.2 and 6.3.

6.5 The customer is entitled to resell the shipment in the regular course of business. The customer now transfers to us all debt claims for the amount of the invoice which comes to the customer by reselling to a third party. We accept the transfer. After the transfer, the customer is authorized to collect the debts. We reserve the right to collect the debts ourselves as soon as the customer does not properly fulfill his payment obligations and ends up in default.

6.6 The processing and handling of the shipment by the customer is always to take place in our name and on our instructions. If processing takes place for items that do not belong to us, we shall acquire ownership of the new articles in proportion to the value of the goods delivered by us for other processed items. This is applicable if the shipment is mixed together with other goods that do not belong to us.

7. Warranty

7.1 We warrant defects on shipments, at our option, first through rectification of defects and substitute delivery.

7.2 If the supplementary performance fails, the customer may generally, at his option, demand reducing payment (reduction of purchase price) or backing out of the contract (withdrawal). However, in the case of a minor contract violation, in particular for minor defects, the customer is not entitled to rescind the contract.

7.3 Warranty claims only exist if the customer points out the apparent defects to us in writing within a period of 2 weeks from the time that the goods are received by the customer. Forwarding the claim on time suffices to observe the deadline. The customer shall bear the entire onus of proof for all claim prerequisites, in particular for the defect itself, the date of its discovery, and the punctuality of the complaint.

7.4 If the customer chooses to withdraw from the contract because of a deficiency in title or a material defect after the supplementary performance, the customer is not entitled to any additional damage claims.

7.5 If the customer chooses the damage claim after the supplemental performance fails, the shipment remains with the customer if this is reasonable for him. The damage claim is limited to the difference between the purchase price and the value of the defective shipment. This rule shall not apply if we intentionally violated the contract.

7.6 The warranty deadline is one year beginning with the delivery. The time for the passage of risk is essential for the beginning of the deadline.

7.7 Only our product description generally applies to the nature of the goods. Public comments, promotions, and advertising do not represent the nature of the goods according to the contract.

8. Liability

8.1 Liability is limited to intent and gross negligence.

8.2 The above-mentioned liability limitations do not apply to customer claims for product liability. Additionally, the liability limitations not apply to injury to life, body and health accountable to us.

8.3 Customer damage claims fall under the statute of limitations after one year beginning with the shipment of the goods. This does not apply if we have acted in bad faith.

8.4 Damage claims for production loss and/or profit loss are excluded in any case.

9. Final Provisions

9.1 The law of the Federal Republic of Germany applies. The provisions of the UN sales law (UNCITRAL, CISG) are not applicable.

9.2 The exclusive place of jurisdiction for all litigation resulting from this contract is our place of business. The same applies if the customer does not have any place of general jurisdiction in Germany or if the address or normal residence is not known at the time of filing the suit.

9.3 If individual provisions of this contract are or become entirely or partially invalid including these general terms and conditions, the validity of the remaining terms and conditions hereby remain unaffected. The entirely or partially invalid provision shall be replaced by a provision whose economic consequence comes closest to that of the invalid provision.

Vettelschoss, 01.08.2005