

Terms and Conditions of Sale and Delivery

for persons acting in the pursuance of their commercial or freelance business activity (entrepreneurs) on conclusion of the contract and for public legal entities or a public trust

1. In general

1.1 The following Terms and Conditions of Sale and Delivery apply exclusively for business dealings between us and the customer. Any deviating Conditions of Purchase of the customer are not the subject matter of this contract, even through acceptance of an order. Unless there is a special agreement, a contract comes about with the supplier's written confirmation of order. The customer will be notified immediately if his order is rejected by the supplier.

1.2 Unless otherwise agreed, the prices are valid in the currency of the Federal Republic of Germany.

1.3 Prices are generally subject to change. In the event that cost conditions change, we reserve the right to charge the prices valid on the day of delivery. Should it be unreasonable for the customer to adhere to the contract on account of a substantial price increase, he can withdraw from the contract.

1.4 Orders are only considered accepted if they are confirmed in writing after clarification of all details.

1.5 Unless otherwise agreed, the prices are valid ex works excluding packaging and value-added tax.

1.6 Any offer of stock goods is subject to prior sale. Delivery by instalments is permissible where reasonable for the customer.

1.7 Details of the weight of the goods, unless they are sold according to weight, as well as of measurements and weight of the packaging are only approximate and not binding.

2. Terms of Payment

2.1 Invoices are due for payment without deduction within 30 days of the date of invoice. A discount of 2% is granted for cash payment within 10 days, unless older due demands are outstanding.

2.2 In the event of delay of payment, we are entitled to charge interest on arrears of 8 % above the respective base lending rate according to § 288 German civil code (BGB).

2.3 Bills of exchange are only accepted after prior agreement, namely just like cheques in payment (pending full discharge of the debt) and without liability for punctual presentation and protest. All expenses and fees are charged to the customer.

2.4 If the client falls behind with his financial commitments or circumstances become known that question his creditworthiness, his entire residual debt becomes due, even if bills of exchange are running with a later due date. If enforcement proceedings are taking place against the customer, insolvency proceedings or conciliation procedures have been sought or opened for his assets, or a considerable deterioration in his financial circumstances occurs, we are entitled to make delivery dependent on advance payments or safety bonds in the amount of the purchase price. In these cases the collection authorisation can be withdrawn in the event of resale.

2.5 The customer only has the right to offset with counterclaims if his counterclaims are undisputed or have been deemed legally valid. The customer can only assert a right of retention on the strength of counterclaims based on the same contractual relationship.

3. Reservation of Ownership

3.1 The delivered goods remain the property of the supplier until all claims due to him against the customer from the business connection have been fulfilled.

3.2 While the reservation of ownership exists, the customer is forbidden from pledging or collateral assignment; resale is only allowed to resellers in the ordinary course of business and only under the condition that the reseller receives payment from his customer or makes the proviso that ownership does not pass to the customer until he has met his financial commitments. The buyer is entitled to call in debts from the resale.

3.3 The buyer's debts from the resale of the reserved goods are already assigned to us now. They serve as security on the same scale as the reserved goods. If the reserved goods are sold by the buyer together with other goods that have not been sold by us, the debts from the resale will be assigned to us in a ratio of the invoice value of the reserved goods to the invoice value of the other goods.

3.4 Adaptation and processing of the reserved goods take place for us as manufacturer within the meaning of § 90 BGB without committing ourselves. The adapted and processed goods are considered reserved goods within the meaning of 3.1. If the reserved goods are processed, combined and mixed by the buyer with other goods, we are entitled to proportionate co-ownership of the new object in a ratio of the invoice value of the reserved goods to the invoice value of the other commodities used. If our ownership expires due to combination or mixing, the buyer already now assigns to us the rights of ownership of the new component or object due to him on the scale of the invoice value of the reserved goods and keeps them safe for us free of charge. Our co-ownership rights also count as reserved goods within the meaning of 3.1. In the event that the goods to which we have obtained co-ownership shares in this manner are sold, a share corresponding to our co-ownership share will be assigned to us in the event of resale of the goods within the meaning of 3.3.

3.5 The customer is obliged to notify us immediately of third-party access to the goods supplied under reservation of ownership and to assigned debts.

3.6 The goods that are under reservation of ownership must be reasonably insured by the customer at his expense against the usual risks and treated with care. Any claims from the respective insurance policy relationship are already assigned to us now.

3.7 If the value of all charging liens to which the supplier is entitled exceeds the amount of all secured claims by more than 20%, the supplier will release a corresponding share of the charging lien at the customer's request.

4. Date of Delivery

4.1 Delivery dates are only binding if they were expressly confirmed by us as being binding in the order confirmation. The delivery deadline begins with the confirmation of order.

4.2 The keeping of delivery deadlines is dependent on the punctual receipt of all documentation, necessary permits and licences as well as clearances (especially plans) to be supplied by the customer, as well as the observance of the agreed terms of payment and other obligations by the customer, in particular the fulfilment of any agreed advance payments. If these conditions are not fulfilled on time, the delivery deadlines are extended accordingly.

4.3 If the non-observance of the deadlines is the result of force majeure, e.g. mobilisation, war, unrest or similar events, especially shortage of raw materials, strike or lockout, the delivery deadline will be suitably extended. The supplier will notify the customer if the start and end of such circumstances as soon as possible.

4.4 In all cases of delayed delivery, even after expiration of a delivery deadline given to the supplier, claims for damages by the customer due to delivery delay as well as claims for damages in lieu of performance are excluded. This does not apply where there is mandatory liability in cases of criminal intent, gross negligence or on account of injury to life, body or health; a change in the burden of proof to the detriment of the customer is not connected to this. The customer can only withdraw from the contract within the framework of the legal provisions if the supplier is responsible for the delay in delivery.

4.5 If despatch or delivery is delayed at the customer's request by more than one month after notification of readiness for shipment, the customer can be charged for storage for each commenced month amounting to 0.5% of the price of the delivery items, but a maximum of 5 percent. The contractual parties are free to furnish evidence of higher or lower storage costs.

5. Drawings and Documents

5.1 We reserve the right of ownership and copyright to drawings, designs and other documents. These are not allowed to be made accessible to third parties.

5.2 Any drawing and documents pertinent to an offer must be returned immediately if the offer does not culminate in an order being placed.

6. Passing of the Risk and Packaging

6.1 On leaving the factory, the risk passes to the customer even in the case of delivery carriage free. If the readiness for shipment is communicated to the customer and shipment resp. delivery does not take place immediately for reasons attributable to the customer or the customer is in default of acceptance for any other reasons, the risk passes to the customer.

6.2 Insurance against breakage, theft etc. will only be taken out at the customer's request and at his expense.

6.3 Unless otherwise agreed, packaging is at our discretion. Packaging and box wear and tear will be charged separately at cost. For postal items, where these are expressly requested or if they are appropriate for smaller orders, postage and packaging costs necessary for postal dispatch will be charged.

7. Complaints and Warranty

7.1 The customer must inspect the goods immediately on delivery and immediately notify the supplier in writing if a defect is found. According to the law, short shipment or delivery of a different article than the one ordered are also considered a defect.

7.2 If the customer neglects to carry out the immediate inspection and reprimand, the goods are considered accepted. § 377 Commercial Code (HGB) otherwise applies.

7.3 If the goods reveal a defect during the passing of the risk, the customer is entitled to replacement.

7.4 Material deficiency claims become statute-barred in 12 months. This does not apply where the law stipulates longer deadlines in accordance with §§ 438 (1) no. 2 (buildings and building materials) und 634 a (1) no. 2 (building defects) BGB. The period of limitation starts with the passing of the risk of the delivered item.

7.5 Deficiency claims do not exist in the case of minor deviation from the agreed quality and minor restriction to the usefulness. Furthermore, no warranty is accepted in the following cases: unsuitable or improper use, incorrect assembly resp. activation by the customer or third parties, natural wear and tear, incorrect or careless treatment, maintenance that is not in accordance with regulations, unsuitable machines and equipment, inadequate building work and for defects arising through chemical, electrochemical or electrical influences. Additionally, if the customer or third parties carry out changes or repair work improperly, no deficiency claims exist for this work and the consequences arising from it.

7.6 Deviations in measurements are unavoidable during manufacture. The tolerance regions therefore remain reserved according to the respective state of the art (DIN 40680 middle). Any dimensional tolerances deviating from this have to be agreed separately.

7.7 If the subsequent delivery fails, the customer can withdraw from the contract. Except for clause 8 of this contract, any more extensive or other claims by the customer against the supplier and his vicarious agents for a material defect are excluded.

7.8 Demands by the customer for expenses necessary for the purpose of subsequent performance, in particular transportation, travelling, labour and material costs, are excluded insofar as the costs increase because the delivery item has been brought to a place other than the customer's branch, unless the transfer corresponds to its use in accordance with the terms.

7.9 Legal claims under a right of recourse by the customer against the supplier only exist insofar as the customer has not made any agreements with his customers that go beyond the legal deficiency claims. Furthermore, clause 7.8 applies accordingly to the extent of the customer's claim under a right of recourse against the supplier.

8. Compensation claims/Withdrawal

8.1 Compensation claims and claims for compensation of expenses by the customer for no matter what legal reason, especially for infringement of duties from the contractual obligation and actionable tort, are excluded. This also concerns damages arising from the actions of the supplier's vicarious agents.

8.2 This does not apply in cases of liability not based on fault, especially according to the Product Liability Act, for liability for warranted qualities and for liability for damages from injury to life, body or health. This also applies to liability for infringement of essential contractual obligations. However, the compensation claim for the infringement of essential contractual obligations is limited to foreseeable damage typical in contracts unless there is liability for criminal intent or gross negligence or for injury to life, body or health. A change in the burden of proof to the detriment of the customer is not connected with the regulations at issue.

8.3 Where the customer is entitled to compensation claims or claims for compensation of expenses according to this contract, these become statute-barred with the expiration of the period of limitation valid for material deficiency claims.

8.4 The buyer is only entitled to legal withdrawal for a breach of duty by the seller that does not consist in a defect of the purchased item if the seller is at fault and it is unreasonable for the buyer to adhere to the contract.

9. Tools

9.1 When invoicing tools, stencils/moulds, engravings, mechanical devices etc., the customer will only be charged proportionate labour and material costs. These invoices are therefore due for payment immediately without deduction.

9.2 The tools etc. charged to the customer become his property, but remain in our possession for the protection of the construction. Their delivery cannot be requested, not even in the event of notice of a defect and regardless of whether deliveries from them take place or not.

9.3 Deliveries from tools to third parties are only carried out with the permission of the owner.

9.4 An obligation to reserve the customer individual models can only be accepted for articles that are registered to the customer by patent or legally valid pattern.

9.5 If no further orders are placed within 5 years of the last usage of the tools etc., we are entitled to scrap them.

10. Governing law, place of performance and legal venue

10.1 The law of the Federal Republic of Germany applies.

10.2 Place of performance is Lauf a. d. Pegnitz.

10.3 Legal venue is the Magistrates' resp. District Court responsible for our company seat for all disputes arising directly or indirectly from contracts of sale, including those disputes on the subject of the legal force of the sale contract and the contract itself.