

GENERAL TERMS OF DELIVERY (AS AT 01/05/2006)

§ 1 Area of Application / Protective Clause

1. Our conditions only apply to individuals who exercise their commercial or independent professional activity (entrepreneur) by concluding the contract, and to legal entities of public law and public funds under public law.
2. These conditions apply exclusively to all our – including future – deliveries and services. Any deviating or additional conditions from the buyer are not binding for us, even if they have not been individually contradicted, unless we have recognized them in writing. In this event, they only apply to the relevant individual agreement. Special agreements made between us and the buyer remain unaffected by this.

§ 2 Conclusion of Contract

1. Our offers are subject to change.
2. The buyer is bound to his order for the duration of two weeks from receipt by us.
3. Orders, supplements and amendments to an order are only accepted when we have confirmed them in writing; execution of delivery, or submission of a delivery note, or an invoice, to the buyer count as confirmation.
4. The buyer has responsibility for checking his order and all contractual documents for completeness, accuracy and suitability for his intended purpose.
5. Conclusion of the contract is subject to proper and timely delivery to ourselves. This does not apply if in particular we have not concluded any congruent hedging transaction to substitute the non or false delivery. We will inform the buyer immediately if goods are not available and immediately reimburse any payments made.

§ 3 Prices / Payment

1. Our prices are taken from the valid price list on the day the contract is concluded plus legal VAT and do not include packaging, transport and other additional costs ex works. For order values less than €100.00 we charge a lump sum of €10.00. Additional costs are usually charged upon proof.
2. If our own costs increase after the day the contract is concluded, particularly material prices, standard wages, legal and collective social payments and freight costs, we are entitled to amend our prices accordingly. In general, we are entitled to increase prices if delivery is first to take place 4 months after the contract is concluded, or if the delivery cannot take place until then due to the buyer's reasons.
3. Our claims are due when the goods are delivered to the buyer and should be paid in euros without discount.
4. Cash payments only have a discharging effect for the buyer if they are made to people to whom we have given written authority to collect. We reserve the right to accept drafts and cheques; they are only ever accepted as provisional payment until all costs and expenses have been calculated and with no guarantee of timely presentation and protesting.
5. If the buyer's payment is late by more than 14 calendar days, or if he stops his payments, or it is recognised after the contract is concluded that our claims are at risk because the buyer is unable to pay, our claims from all contracts are due immediately. Deferrals or other moratoriums – even by accepting drafts – end. We can demand advance payments or security provisions for non-delivered goods and withdraw from the contract and demand damages after an unsuccessful additional period has passed. In general, the legal regulations apply to delays.
6. We are entitled to credit the buyer's payments against his older debts, regardless of any other instructions the buyer may have.
7. The buyer is only entitled to offset or exercise rights of retention if the counter claim is uncontested or legally declared; this does not apply to rights of retention because of defective goods.

§ 4 Delivery

1. Our written order confirmation is the only binding document for delivery.
2. The delivery times, periods and dates given by us are non-binding, unless otherwise expressly agreed in writing. Delivery times are only approximate if they are agreed as non-binding. Only working days are counted; Saturday is not a working day. Agreed periods start once the contract is concluded, but not before the buyer has acquired the necessary documents, approvals, releases, provisions or other requirements essential to implement the contract, and also not before receipt of an agreed deposit; this also applies to period changes.
3. In any event, we are only in delay after a written reminder of the due date.
4. We are also entitled to make part deliveries and to deliver before the delivery time, if this is reasonable for the buyer.
5. In the event of a force majeure or other circumstance that we could not have foreseen, particularly procurement, manufacturing and delivery disruptions, strikes, lock outs, high or low water etc., for us or our suppliers, we are released from our delivery obligation for the duration of the disruption and an appropriate warm-up time - even during an already existing delay. This does not apply if the disruption was the result of deliberate or grossly negligent action by us, our legal representatives, agents or assistants. If the delivery becomes impossible or economically unreasonable due to the listed circumstances, we are released from our contractual obligations. The buyer is entitled to withdraw in the event of a time-critical transaction. Any claims for damages by the buyer are excluded.
6. We are under no obligation to deliver whilst the buyer is in significant arrears with a debt.
7. The buyer must accept deliveries, even if they are defective.

§ 5 Claims due to Defective Goods

1. Goods are not defective if they meet the agreed conditions. This is taken from our product description and the written order confirmation. Public statements, sales talk and advertising by us, the manufacturer or assistants, have no relevance for the condition of goods. All offer details, e.g. diagrams, illustrations, sizes and weights of the goods, are non-binding; deviations of up to +/- 10 % do not constitute a defect, unless specific sizes or weights were agreed. Details on characteristics, models and samples are merely an indication of the condition of the goods.
2. The weighing performed by us or our suppliers is decisive for the weight. The proof of weight is effected by the weight note or weight protocol. Weights can be determined by standard without weighing where permissible. The usual surcharges and discounts (commercial weights) in the German steel industry remain unaffected. The number of units, bundles etc detailed on the despatch note are non-binding for goods charged by weight. If individual weighing is not usually performed, the overall weight of the shipment applies in each case. Differences in the calculated individual weights are divided proportionally on this basis.
3. Accepting enclosure by Deutsche Bahn, shippers or carriers, counts as proof of correct condition of the enclosures.

4. We make no guarantee for the condition or usability of the goods (particularly not for grade or alloy purity), or that the goods will retain their condition for a certain duration.
5. As a prerequisite to any claims by the buyer due to defective goods, the buyer must inspect the goods immediately on receipt and inform us of any defects at the latest within four working days for noticeable defects; in the case of defects that are not immediately noticeable, they must be reported within four working days of discovery. Disputed goods may not be unloaded without our approval. If a deviation from grade is only noticed on or after unloading, the goods must be stored separately.
6. The buyer gives us the opportunity to check defect claims. If the defect claim turns out to be unfounded, the buyer is obligated to reimburse us for any costs we have incurred whilst checking.
7. In the event of defects, we are obligated to remedy the defect, or to supply new goods, as we choose (supplementary performance). In the event of failures, unreasonableness or refusing supplementary performance, the buyer can reduce the price, withdraw from the contract or demand compensation in accordance with point 6.
8. Quality defect claims cannot arise merely from insignificant deviation from the agreed condition of goods.
9. We only bear the costs in connection with supplementary performance if these are reasonable in individual cases, particularly in relation to the purchase price of the goods. We will not bear costs that are incurred in this situation if the sold goods have been brought to a location other than the agreed place of fulfilment, unless this was in accordance with their contractual use.
10. The sale of used goods is effected without any liability for defects. In the event of fraudulent non-disclosure of defects, or if a guarantee is made for the condition of goods, the buyer's claims remain unaffected.
11. Claims because of defective goods lapse 1 year after delivery of the goods, unless the claim concerns an item that has been used for construction in line with its standard method of use and the claim is the result of its defectiveness, or if we have caused the defect due to deliberate behaviour, or have given a guarantee in exceptional circumstances.
12. The buyer cannot transfer defect claims.

§ 6 Liability

1. We have unlimited liability for damage caused to the buyer's body, life or health, which is the result of negligent action by us, our legal representatives, assistants or agents.
2. Our liability for other damages due to ordinary negligence of non-essential contractual obligations is excluded. In the event of ordinary negligence of essential contractual obligations – also by our legal representatives and agents / assistants – our liability is limited to typical, foreseeable contractual damage.
3. Typical, foreseeable contractual damage means damage up to €50,000.00.
4. Our liability and the time limit in accordance with product liability legislation remain unaffected.

§ 7 Transfer of Risk

1. Our deliveries are effected EX WORKS – EXW – INCOTERMS 2000.
2. If despatch is delayed due to circumstances caused by the buyer, the risk transfers to the buyer on the day of despatch readiness. In this event, we are entitled to store the goods at the cost and risk of the buyer at our discretion and to demand payment of the agreed price.
3. The type of despatch, route and packaging are chosen at our discretion in the absence of written instruction from the buyer. We only take out transport insurance on request. This is in the buyer's name and at his cost.

§ 8 Retention of Ownership

1. We retain ownership to our goods before complete payment of all – also future – claims from the entire business relationship, including all additional claims and until any submitted drafts and cheques have cleared. The retained ownership acts as a safeguard for balance payment claims for open accounts.
2. The buyer may resell goods that we own or co-own in the course of his proper business activity. The buyer transfers all claims against his customer arising from the resale to us; if we only co-own the resold goods, the buyer transfers the claim according to our level of ownership; we hereby accept the transfer. The buyer remains authorised to collect on claims transferred to us.
3. Extraordinary provisions, such as pledging and conditional bills of sale are not permitted. The buyer must inform us immediately of any seizures by third parties of our retained ownership goods, or to a claim transferred to us, particularly levies of execution. The buyer bears the costs of necessary interventions.
4. If the buyer is in breach of the contract, particularly a delayed payment, we can demand surrender of the goods still under our ownership; we are entitled to take the goods back ourselves. For this purpose, the buyer grants us irrevocable access to his business areas. The authority described at point 2. above lapses if the retention of ownership is asserted. If we assert retention of ownership and garnishment of the goods, this does not constitute withdrawal from the contract. The buyer must send us immediately on request a list of the claims transferred to us in accordance with point 2. above, detailing the customers' addresses and the claim amounts. In general, the buyer is obligated to disclose the third party debtors at our request and to surrender the necessary information or documents, which we require to assert our rights.
5. We are obligated to release the retained ownership goods and claims transferred in accordance with point 2. at the buyer's request, whilst retaining the choice in this respect, when the back-up value of the retained ownership goods, or the claims transferred in accordance with point 2., exceeds our purchase price claim. The back-up value corresponds to the purchase price plus 20 % for reuse losses and costs. Release is effected by transfer of ownership or reassignment.

§ 9 Place of Jurisdiction / Applicable Law / Final Provisions

1. German law is exclusively agreed. The UN Convention on the International Sale of Goods (CISG) does not apply.
2. Our corporate headquarters are the place of jurisdiction for commercial business and for cases where the buyer has no domestic, general place of jurisdiction, or has set up his place of residence or usual domicile abroad after the contract is concluded, or if neither the buyer's place of residence nor usual domicile are known at the time of the complaint. We are also entitled to complain at the buyer's address.
3. If individual provisions of this contract are or become ineffective, the effectiveness of the remaining provisions is unaffected by this.