

General Terms and Conditions

A. General

1. These General Terms and Conditions (GTC) apply to all of our – also future – business relationships, in particular purchase and supply contracts, with companies in terms of § 14 BGB and legal persons governed by public law (following: "purchaser"). Deviating or supplementary GTC of the purchaser are not applicable; this also applies if we deliver unconditionally despite being aware of such GTC.

2. Individual agreements (inclusive collateral agreements, amendments and modifications) shall take priority over these GTC.

B. Conclusion of Contract

1. Our proposals are subject to confirmation. A contract shall only become binding if we agree to the order of the purchaser - in particular in writing.

2. It shall be the responsibility of the purchaser to check our order confirmation and to immediately report any such deviations from the order; otherwise the deviations are taken to be approved.

C. Delivery conditions

1. In case we are not able to keep binding delivery dates due to reasons we are not responsible for (impossibility of performance, e.g. because our suppliers failed to deliver us), we shall inform the purchaser without delay and determine a new delivery period which appears reasonable according to the circumstances. If the performance continues to be impossible, also within the newly determined delivery period, we shall be entitled to cancel the agreement completely or partly.

2. The accrual of our delay in delivery is regulated under the statutory provisions. Notice by the purchaser is required in any event.

3. Delivery shall be ex-warehouse, wherever the place of fulfillment is. At the request of the purchaser, the goods can be dispatched to another destination. Delivery of the goods shall be effected at purchaser's risk (destruction, deterioration, delay). In so far as an acceptance is agreed, this shall be determinant for the transfer of risk. In addition (e.g. default of acceptance) the legal provisions apply.

D. Prices and payment conditions

1. In each case our current prices at the time of conclusion of the contract are valid, namely ex-warehouse exclusive of packaging, plus the statutory Value Added Tax. Packaging and shipping costs are calculated at our own costs.

2. The purchase price is due and payable within 30 days from the date of issue of the invoice (receipt) and delivery of the goods. Upon payment within 8 days we will grant a 2% discount.

3. The purchaser shall only be entitled to execute offsets or retentions in so far as the respective counterclaim has legal effect or is acknowledged by us.

4. For custom-made products for the purchaser, we are entitled to immediately rescind the contract if implementation of the contract is endangered due to the inefficiency of the purchaser (e.g. application for insolvency proceedings). Our statutory rights, in particular in accordance with § 321 BGB remain unaffected.

E. Retention of Title

1. We reserve title to the goods until all our present and future claims have been paid in full.

2. In case of breaches of duty, in particular by non-payment of the purchase price, we shall be entitled, under the statutory provisions, to cancel the agreement or/and to claim return of the goods on request. The claim for returning of the goods does not automatically mean cancellation of the agreement; we shall rather be entitled to claim return of the goods and to reserve the right of cancellation. In the event of non-payment of the purchase price, we will only assert these rights if, after the statutory period of grace and a reasonable final deadline for payment has expired without result.

3. The purchaser shall be entitled to work up and/or sell the goods in the ordinary course of business. In this case the following provisions shall additionally apply.

3.1 The retention of title extends to the full value of the products ensuing from the processing, mixing or combining and we shall be deemed to be the manufacturer. In case proprietary rights of third parties continue to exist, we shall obtain co-ownership in proportion to the value of the goods. In all other cases the product is subject to retention of title.

3.2 Regardless of whether the goods are resold, without or after processing, the purchaser assigns to us completely, or to the amount of our co-ownership, all the claims arising from a resale as a security. We accept the transference. In addition to ourselves, the Purchaser remains empowered to collect the receivables.

3.3 If the value of the collateral exceeds our claims by more than 10%, we shall, upon the purchaser's request, release collateral of our choice.

F. Defect Claims of the Purchaser

1. Unless hereinafter provided otherwise, we shall be liable, under the statutory provisions, for defects of quality and legal imperfection in title of the goods (inclusive mistaken and short delivery). The statutory regulations concerning suppliers' recourse (§§ 478, 479 BGB) shall remain unaffected; for claims for damages we shall accept liability only in accordance with the provisions under G.

2. Only such product descriptions shall be considered as an agreement on quality which are subject-matter of the individual contract. Supplementary to the statutory regulation, the goods shall also be considered to be free of defects at delivery, if they are in accordance with the product description following conclusion of the agreement. We shall not be liable for public statements of third parties (e.g. advertising statements).

3. The warranty claims of the purchaser require that they have observed their statutory obligations to examine the goods and to give notice of defects.

4. In case the goods are defective, it shall be at our option either to subsequently perform by removing the defect (subsequent improvement) or to deliver a faultless item (substitute delivery). Our legal right to refuse remains unaffected.

5. In case the subsequent performance failed or a time limit for the subsequent performance which the purchaser has to determine expired unsuccessfully, the purchaser shall be entitled to cancel the purchase agreement or to reduce the purchase price. The right to withdraw shall not be applicable in the event of a minor defect.

6. The purchaser's claims for damages or compensation of wasted expenses shall only exist in compliance with the following clauses, otherwise they shall be excluded.

G. Other Liability

1. We shall only be liable to pay compensation – regardless of the legal grounds – only by intent and gross negligence. However, we are also liable for slight negligence,

- for damages arising from death, injury or damage to health;
- for damage caused by breach of a primary contractual obligation; however in this case, our liability shall be limited to the predictable, typically occurring damage.

The aforementioned limits on liability shall not apply if we have maliciously concealed a defect, or assumed a guarantee, for the quality. The same is valid for claims of the purchaser in accordance with the Product Liability Act.

2. Apart from our warranty for defects, the buyer has a right to cancel or terminate the agreement (e.g. law §§ 651, 649 BGB), but only if we fail to comply with our duties; in particular, an unrestricted right of termination shall be excluded. The notice of withdrawal or termination must be declared in writing. In addition, the legal provisions and consequences apply.

H. Statute of Limitation

1. Deviating from § 438 Para. 1 No. 3 BGB the general statutory period of limitation for claims arising from defects of quality or legal imperfection in title shall be one year from the day of delivery.

2. For buildings and building materials, the general statutory period of limitation for claims is two years from the day of delivery. The particular period of limitation of the suppliers' statutory recourse shall remain unaffected and also applies in favour of the purchaser, when the performance to the consumer is not based on a purchase agreement, but on a works contract with a five year limitation period.

3. The statutory provisions for real claims for restitution of property of third parties, the suppliers' recourse and for the case of fraud shall remain unaffected in any case.

4. In so far as we owe contractual damages to the buyer due to or as a result of a defect, the uncurtailed statutory periods of limitation of the Law on Sales shall apply (§ 438 BGB). These periods of limitation shall also apply for competing extra-contractual claims for damages, unless the application of the ordinary statutory limitation (§§ 195, 199 BGB) results in a shorter period of limitation in the individual case. In any case, the limitation periods stipulated in the Product Liability Act remain unaffected.

I. Choice of Law and Jurisdiction

1. This agreement is governed by the laws of the Federal Republic of Germany excluding all international and supranational (contractual) legal systems, especially of the Law on Sales of the UN. Requirements and effects of the retention of title are subject to the law at the respective location of the matter.

2. In the case of business persons – also international – jurisdiction Dresden. We are however also entitled to institute legal proceedings at the purchaser's place of general jurisdiction.