

Terms and conditions of sale, delivery and payment

I. In General

1. All orders, signed contracts and other agreements underlie the following terms of delivery and payment. Changes or their exclusion require our distinct written confirmation and do not invalidate other contractual terms. Promises and agreements per telephone are required to be in written form. After we have received the order confirmation it is irrevocable. We are principally not obligated to buyers terms and conditions even if these have not been contradicted.
2. Offers, unless otherwise terminated, are always to be regarded as non-binding. The corresponding documents such as drawings, illustrations and weight declarations are a proximately valid except where they are defined as binding.
3. The terms of business are valid for the contractor and consumer. Contractors are natural and juristic corporate bodies or legal partnerships who trade commercially or are self-employed. Consumers are natural bodies who cannot be regarded as acting commercially or self-employed. Buyers in respect of terms of business are both consumers and contractors.

II. Prices

1. Our prices are not binding and given in Euro. Agreed prices are only valid for each concluded order. At the time of delivery permissible extra charges, required price increases and other charges are considered as agreed.
2. The weights and dimensions determined by the manufacturer are the obligatory basis for calculation.
3. The adoption of freight charges (Groupage Shipments) by the supplier is only possible by special agreement which must be stated in the corresponding offer. Extra charges for priority shipments, express deliveries etc. are always for the account of the buyer.
4. Prices do not include Value Added Tax (VAT).

III. Payment terms

1. It is agreed that payment can only be made by bank transfer.
2. Discountable drafts or bills of exchange are not accepted.
3. Checks are only regarded as payment on the date they are cashed.
4. Over-due payment is considered as default without reminder of payment. By default, open payments are subject to the statutory interest rates (contractors 8%, consumers 6% above the actual basic interest rate) without influencing other claims.
5. If payment terms are exceeded or circumstances made known to us, even after order confirmation, which are suitable grounds for reduction of the buyers' credit rating, or payment has been suspended due to receivership, all accounts receivable become automatically due for payment no matter what payment terms were offered. In these cases we furthermore reserve the right to demand pre-payment or cash on delivery for pending shipments or dissolve the contract at notice which shall be determined by ourselves. We reserve the right to claim damages for non-performance without waiver of our right to take back goods delivered under reserve of title at the buyers' expense.
6. Representatives are only allowed to collect debts with special written power of attorney.

IV. Reserve of title

1. Regarding contractors we reserve the right of title to the goods until all accounts receivable resulting from a current business relationship have been fully paid. Regarding consumers our title is reserved until full payment of the price of the goods. If the buyer is in breach of contract, especially in default of payment, we have the right to take back goods after a reminder of payment has been issued and the buyer is bound to return these goods. Restitution of goods or distraint does not constitute withdrawal from the contract.
2. Delivered goods which have been processed or changed in any way still underlie our title. If the reserved goods are processed together with properties for which we have no title, we gain partial title of the new property in relationship to the value of our reserved title and the other processed properties at the time of processing. For items resulting from such processing the same conditions apply as for goods with title reservation.
3. The buyer is not allowed to pledge delivered goods or transfer ownership as security. In case of distraint, confiscation or other disposal by a third party the buyer is bound to inform us instantly and furnish us with any information and documentation required to secure our rights. Legal executors or third parties are to be informed of our title.
4. The buyer is entitled to the resale of delivered goods according to normal business practice. In this instance he resigns to us all accounts receivable generated by this resale to clients or third parties, irrespective of whether the reserved goods have been sold before or after processing. The buyer is still entitled to claim these accounts receivable also after this resignation. However, our authority to collect these accounts receivable remains indisputable; we are obliged not to claim such accounts receivable as long as the buyer correctly fulfills his contractual terms of payment. If the goods delivered are resold together with goods for which we have no title the accounts receivable of the buyer against his client are regarded as resigned to us at the value of the delivery price agreed between the buyer and us. We can demand that the buyer announces these resigned accounts receivable and the debtor, passes on all necessary information required to collect the debt, hands over the according documents and informs the debtor (third party) about the resignation.
5. We are obliged to release securities in as much as their value, if they, compared to existing accounts receivable to be secured, increase more than 20% thereof.
6. In case of distraint or any action taken by receivers of the buyer to restrict control or disposal of goods delivered by the contractor, the buyer is obliged to inform the contractor immediately by express registered mail. The costs for returning confiscated goods, if they cannot be retrieved from third parties (debtors), are to be carried by the buyer.
7. If insolvency proceedings are taken against the buyers' assets, all accounts receivable become due for payment. In this case the buyer forfeits his right of disposal over the delivered goods and the contractor is entitled to demand the immediate return of such goods under exclusion of any rights of retainment. All costs resulting hereof are to be carried by the buyer.
8. Fixtures, tools and forms remain under our title providing they were not given to the disposal of the buyer to perform an order or underlie special agreement.

V. Delivery dates and deliveries

1. Technical drawings given to us by our business partners become our property. Our liability for models, forms, fixtures and similar items given to us underlie §690 BGB (German Civil Law). Any liability for claims of damage against us is limited to the value of the material the model is made of.
2. Any risk is passed on to the buyer at the moment when the goods are taken over. Should the buyer declare to refuse the delivered goods, the risk of force majeure or accidental deterioration of the delivered goods is passed onto the buyer in the moment of refusal.
3. The preparation of all goods for shipment is always made on the buyer's account. Part deliveries are allowed. In case of damaged or robbed deliveries by rail, an official railway investigation report is to be arranged immediately upon receipt of the goods.
4. It is conditional that certain quantities in contracts have to be collected within the agreed time periods in even quantities or according to contractual agreements concerning delivery times and part shipments. An invoice shall be issued for each part shipment. If a contractual quantity is not collected within the agreed period we reserve the right to invoice the higher costs caused thereof.
5. The shipper reserves the right to deliver up to 10% above or below the ordered quantity. Our delivery dates are not binding and are only valid on the date of our order confirmation after final clearing of all technical details. Keeping our delivery dates is only possible if all obligations of the buyer are fulfilled, especially the agreed conditions of payment and the punctual handing over of required documents for the execution of the order.

7. If changes in construction or version are made by the shipper before delivery of the goods no complaints can be accepted.
8. Any obstacle that can be justified by us does not allow us to withdraw from the contract. Events of force majeure, production disturbances or material deficiencies as well as circumstances similar to force majeure, which make the processing of accepted orders impossible, allow us to withdraw from the contract or delay the delivery until the previously stated circumstances can be rectified. A right to claim damage is not existent neither after termination of a date given by the buyer.
9. The buyer can only withdraw when the delivery date has expired longer than four weeks and when a reasonable delivery date given by us has unsuccessfully expired.

VI. Right of protection

1. When objects according to drawings, models, samples or specification of the buyer are delivered, the buyer guarantees to us that the processing and delivery of these objects do not injure the rights of third parties. We are entitled to cease manufacturing and delivery excluding any damage liability towards the buyer and to claim any accompanying costs if a third party prohibits this due to its right of protection concerning manufacturing and delivery of these goods that were processed according to drawings, models, samples or specifications of the buyer; in this case we are not even obliged to examine the legal position. The buyer is bound to exempt us immediately from any damage liability towards a third party; we can insist on the buyer to pay an adequate advance payment for all indirect and direct damages. Drawings, models and samples will only be returned at the buyers demand. In case of non-confirmation of an order we are entitled to destroy such documents two months after the date of offer.

VII. Guarantee

1. The goods of the contractor are manufactured with utmost care according to the latest technical knowledge. The suitability of the products for the intended application is to be tested by the buyer through own experiments before processing. Contractors instructions for use only represent application guidelines which are based on their own experiments and generally recruited practical experience. This does not effect contractors liability.
2. We guarantee our delivered goods within the framework of the contractually agreed properties. If our goods are subject to entitled complaint we are obliged to contractors, at our own discretion, to either re-fulfilment, further processing or replacement delivery; consumers have the choice of one of these alternatives. If we can not eliminate a fault which is within our guarantee obligations or further re-fulfillment is deemed unacceptable for the buyer he can withdraw from the contract or reduce the buying price. Minor contractual defaults however, do not entitle the buyer to withdraw from the contract. If the buyer should choose to withdraw from the contract he is not entitled to any claims of liability or damage concerning this default. Should he choose to claim damages after failure of re-fulfillment the goods remain with him if reasonable. Damages are restricted to the difference between the buying price and the value of the defective item. This restriction is not valid in the case of willful deceit. Contractors are bound to inform us about obvious defects in writing within 2 weeks from receipt of the goods; otherwise there are no means of acceptance of any guarantee claims. To secure this time limit it is sufficient to send off the written complaint in time. The contractor is responsible for all evidence concerning the complete claim, especially for the defect itself, for the exact time of discovering the defect and for sending the notice of claim in time. Consumers must inform us about obvious defects in writing within two months after the time of discovery of any evident defects or condition of goods contrary to the contract. The date we receive the notice of defect is decisive to secure the time limit. If the consumer fails to give notice in time the guarantee conditions expire 2 months after his discovery of the defect. Evidence concerning the exact time at which the defect was discovered must be brought forward by the consumer. Concerning used goods the consumer is bound to prove the deficiency of the item.
3. For consumers, the guarantee expires two years after receipt of the goods. For contractors and used items the guarantee expires in general one year after receipt of the goods.
4. For contractors solely the product description of the manufacturer has validity concerning the nature and constitution of the goods. Public statements, recommendations or advertisements of the manufacturer do not represent or parallel the nature or constitution of the goods. Guarantees in the legal sense are not given to the buyer by us. Manufacturer guarantees are not effected thereof.
5. In case of negligent breach our liability is limited to foreseeable, typical average defects according to the properties of the goods. This is also applicable for our legal representatives or employees. Against contractors we are not liable for light negligent defects of unimportant contractual obligations. This limitation of liability does not concern the entitlement of buyer towards our product guarantee. Limitations of liability are not valid if severe faults can be lodged against us as well as in cases where damages to body and health or loss of the buyers life are at our responsibility. Limited liabilities are also valid for the personal liability of our employees, legal representatives or any helpers involved.

VIII. Data Privacy

1. For the purpose of decision making, execution or terminating contractual agreements we investigate or use probable values in which their usage, amongst others include address data.

IX. General regulations

1. Osnabrück is without exception place of jurisdiction for qualified commercial staff, legal corporate bodies or special assets under public law. This is also valid for the consumer when he has no German residence or residence permit or it is not known when legal proceedings are lodged.
2. German law is valid without exception and excludes the laws concerning internationally sold goods, even when the buyer's company location is outside Germany.
3. If any single regulation of these conditions is proven legally ineffective the general terms of delivery and payment as well as the special terms remain effective.
4. The only lawful valid text of these terms and conditions is the original German language version.