



Sales and delivery conditions

I. General

1. These Terms of Sale and Delivery apply to all contracts, deliveries and other services, present and future, unless other terms have expressly been agreed in writing. Contradicting terms or conditions of the buyer in order to be effective require our express agreement in writing.
2. All offers are without obligation. All orders, conclusions of contract and their modifications or any other agreement or arrangement, in particular oral agreement or promises by our sales personnel in order to be legally binding require our written confirmation. All descriptions of the goods, drawings, illustrations and technical specifications of any kind are without obligation. We reserve the right to make changes which do not affect the function or use of the goods.
3. Our plans and/or technical documents which are submitted to the buyer prior to or after conclusion of the contract remain our exclusive property. These plans, documents, etc. shall not be used, copied, duplicated and/or delivered to any third party or disclosed by the buyer without our written consent. – We hold all rights and ownership to all tools made for the performance of the contract, even if part of the cost for such tools is billed to the buyer.
4. Weight data is exclusively for the calculation of the approximate freight or customs charges. Differences between the indicated and actual weights are no reason for a price discount or compensation of freight or customs charges.
5. The buyer alone is responsible for all violations of industrial property rights based on buyer supplied data, drawings, etc.

II. Prices

Unless expressly agreed otherwise in writing, all prices are in EUR currency as unit prices for delivery ex works, exclusive of special acceptance cost, packaging and freight costs and value-added tax at the rate applicable on the date of delivery. – Cost increases of any kind entitle us to adjust prices to reflect the increase.

III. Delivery period, term

1. The term of delivery starts on the date of issue of our order confirmation but not before the settlement of all details of the contract and availability of all permits and certificates; agreed dates will change accordingly. – All terms and dates relate to the time of completion in our factory. They are deemed to be met when the goods are notified as being ready for dispatch if the goods cannot be dispatched in time for reasons for which we are not responsible. We are not responsible for delay or non-delivery by our suppliers.
2. Notwithstanding our rights under delay caused by the buyer, all terms and dates extend by the time for which the buyer delays his obligations to us from this or any other order, plus a reasonable starting time. This includes delay of delivery of material supplied by the buyer.
3. Events of force majeure, strikes, lockouts, disruptions of operations, currency, commercial and other acts of the sovereign and obstructions of transport routes, irrespective of whether these conditions affect us or any of our suppliers, entitle us to postpone the delivery by the time the obstruction or hindrance persists, plus a reasonable starting period, also when the obstruction or hindrance occurs while delivery is delayed. If the performance of the contract becomes unreasonable for one of the parties, that party can withdraw from the contract.
4. If we are in delay, the buyer, at the end of a reasonable period set us in writing, can withdraw from the contract if the goods have not been dispatched or notification that the goods are ready for dispatch has been sent by the end of that period. Claims for damage due to delayed delivery periods or delivery dates are excluded unless a firm date of delivery has expressly been agreed.



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IV. Acceptance tests

1. Acceptance tests which are mandatory or obligatory under other provisions will be made or caused to be made by us. The certificate issued at the end of the test will be submitted to the buyer.
2. The cost of special acceptance tests which are required by the buyer on the basis of special or foreign test specifications will be charged to the buyer. – Acceptance tests or inspections of the goods by the buyer are made in our factory at buyer's costs. – If special acceptance tests and acceptance tests or inspections by the buyer are not made directly after the notification that the goods are ready for dispatch, the goods are warehoused at the cost and risk of the buyer and billed as having been dispatched.

V. Delivery and passing of risk

1. Unless expressly agreed otherwise, the goods are delivered ex works without packaging or protection from corrosion. If packaging of the goods is agreed, this will be done as is common commercial practice and charged extra.
2. Unless agreed otherwise in writing, we define the transport route and means of transport, the forwarder and carrier. This is done without any responsibility on our part, in particular, we are not obliged to use the cheapest transport.
3. We can make reasonable partial shipments.
4. The risk in the goods, including the risk of confiscation, passes to the buyer when the goods are handed over to the carrier or forwarder, latest however when the goods leave our factory. This also applies if delivery free of carriage charges has been agreed.
5. Goods for which notification of their readiness for dispatch has been sent shall be collected/called without delay, otherwise we are entitled to warehouse the goods at the cost and risk of the buyer and bill them as having been delivered.
6. Claims for damage in transit can only be addressed by the buyer to the responsible person and/or company. To enable the buyer to claim damage we will assign to the buyer claims due to us to the extent necessary.

VI. Terms of payment

1. Our prices are stated in Euro and exclude sales tax, freight, packing, postage and insurance.
2. Unless anything else is agreed in writing, the purchase price and the payments for performances of additional services are due for payment without deduction within 30 days after delivery invoice and delivery clear net without any deduction, whether or not the goods have been received and notwithstanding the right of claiming defects, excluding the right of setting off any amount in dispute or the right of retention. If the goods are subject to official acceptance procedure, the buyer cannot withhold payment until the official certificate is available.
3. Payment is considered to have been made in time if the amount owed is available to us latest by the due date.
4. Deduction of any kind is only allowed if all other obligations, including any of earlier date, have been met in time. Discounts are not permitted if payment is made by draft.
5. We accept as payment rediscountable drafts for which tax has been paid provided this has expressly been agreed at the time of the contract. Payment by draft is accepted on the condition that the amount will be credited when actually received, less expenses, on the day of valuation on which we can irrevocably dispose of the amount. We are not reliable for timely presentation or protest.



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6. If payment is not made by the agreed date, we can charge interest at the applicable bank rates for overdraft facilities, at least however interest at the rate of 5 % above the respective discount rate of Deutsche Bundesbank (German Central Bank).

7. Notwithstanding the term of any drafts discounted and credited, all our outstanding amounts become due and payable without delay if the terms of payment are not met or we become aware of conditions which are likely to impair the creditworthiness of the buyer. Under these circumstances we can demand advance payment for all outstanding deliveries and if no advance payment is made we can cancel the contract after a reasonable grace period or claim damage for nonperformance. We can also forbid the further sale of the goods or the processing or conditioning of the goods delivered, revoke a standing order for direct debit and demand the return or restitution of indirect ownership in the delivered goods at buyer's cost and the buyer shall not have a right of retention or similar right in the goods. After prior information and setting of a deadline, we can enter the buyer's facility to collect the delivered goods and to sell the goods to recover the outstanding purchase price less costs as best as possible.

VII. Retention of ownership

1. All goods delivered by us remain our property (reserved goods) until payment in full of all amounts due to us for whatever cause has been made, even if the payments are made for a specifically designated claim. If payment by the buyer is in connection with our liability under a draft, the retention of ownership does not cease unless the draft has been paid in by the buyer as drawee.

2. Any processing or conditioning of the reserved goods is for us as manufacturer within the meaning of Article 950 BGB (German Civil Code), without creating a liability for us. The processed goods are agreed to be reserved goods. If reserved goods are processed, combined or mingled with other goods, we obtain co-ownership in the new product in the ratio the invoice value of the reserved goods bears to the invoice value of the other goods. – If our ownership ceases due to combination or mingling, the buyer hereby assigns to us all ownership rights due to him in the new product or products to the extent of the invoice value of the reserved goods and keeps the goods for us without charge. The co-ownership rights are deemed to be reserved goods within the meaning of clause 1.

3. The customer shall not dispose of any reserved goods except in the normal course of business provided he is not in default of payment. – The installation in land or integration in equipment installed in buildings or the use in performance of other contracts for work and labor or delivery are deemed to be equal to a resale.

4. The buyer hereby assigns to us all claims in connection with the resale of the reserved goods. If reserved goods are sold together with other goods, the assignment of claim from such sale is limited to the resale value of the reserved goods in the new product. If goods in which we hold co-ownership right (clause 2) are sold, the assignment of the claim is for the amount of the co-ownership. – If the buyer has claims on an insurer or any other third party for damage, loss or destruction of reserved goods or for any other reason, buyer hereby assigns these claims to us in the amount due to us.

5. The buyer is entitled to collect claims from the resale until revoked by us. We will exercise the right of revocation only in the cases according to article VI 6. The buyer is not entitled to assign a claim except with our prior written approval. If requested by us, the buyer is obliged to inform his buyers of the assignment of claim to us and provide all information and documents to enable collection.

6. No legal act taken by us shall be deemed to be a withdrawal unless with our express written statement to this effect. – The buyer's right of possession of reserved goods ceases if he defaults on his duties under this or any other contract. – The buyer is obliged to inform us without delay of the existence of a lien or any other other limitation of our title by a third party. – If the value of the available securities exceeds our claims by more than 10 per cent not only temporarily, we will release as much securities of our choice as we deem advisable if so requested by the buyer.

7. In countries in which there is no retention of title or similar legislation, the buyer hereby grants us a similar type of security and shall cooperate in taking all required measures.

VIII. Notice of defect and warranty



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1. Our warranty for obvious or hidden defects or the absence of a warranted characteristic of the delivered goods is exclusively by our free repair or replacement - at our reasonable discretion - of items which become unusable within 6 months or any other period prescribed by law, after the passing of risk. Other claims by the buyer for defects or the absence of warranted characteristics are excluded to the extent permitted by law, in particular, all claims for damage caused to goods not delivered by us (consequential damage). – Defects found during the acceptance or any other act agreed to be an acceptance which would have had to be notified at the time of the acceptance cannot be notified later. – No warranty is granted for second-hand goods or goods sold in the condition as-seen.
2. Defects shall be notified in writing without delay – obvious defects latest 14 days after the passing of risk – and all processing or conditioning stopped immediately, otherwise no defect can be claimed.
3. No warranty claims are accepted if the buyer fails to afford us an opportunity of inspecting the defect without delay or, in particular, fails - on our request - to return the defective goods to us freight paid without delay or undertakes repairs or similar activities himself.
4. If a notice of defect is justified and not delayed, we can repair or cause repair or replace the goods or compensate the loss of value with reasonable consideration of the buyer's interests. – Of the expenses incurred in connection with the repair or replacement, we bear, for justified complaints, the cost of the repair, the cost of the replacement goods, including shipment, if this can reasonably be demanded in consideration of the case, as well as reasonable cost of removal and installation, also, if reasonable on the merits of the case, the cost for required mechanics and helpers. All other costs shall be borne by the buyer. Replaced parts become our property.
5. If we fail to perform warranty or fail to provide warranty as agreed in the contract, the buyer can claim a price reduction or withdraw from the contract to the extent of the defective part, which would be to the exclusion of any other claim.
6. No warranty is granted for defects due to harmful natural effects or subsequent wear and tear, defects of processing or conditioning, installation or assembly work, wrong commissioning, improper operational demands, use of unsuitable or non-intended operating equipment, etc. – Warranty is also not granted for defects caused by information provided by the buyer (e.g., materials, manufacturing drawings or manufacturing instructions) or by modifications or changes required or repairs carried out by the buyer. Warranty does also not cover items which due to their nature or type of use are subject to increased natural wear and tear, such as seals, gaskets, common types of protective paint, etc.
7. Direct and indirect costs incurred for the inspection of the goods or the repair of a defect shall be borne by the buyer if the complaint was unjustified or was outside our scope of warranty on the basis of our terms of sale and delivery.
8. Repairs and replacement deliveries have no effect on the end of the normal warranty periods. - We are not obliged to repair defects as long as the buyer defaults on his contractual duties. – Warranty claims are forfeited at the end of one month after refusal of the notification of defect or non-acceptance of our proposed compensation, calculated from the date of our letter in this matter.–

IX. Limitation of liability, statute of limitations

1. Claims not expressly granted in these Terms, in particular, claims for damage due to impossibility, delay, violation of contractual collateral duties, negligence in contracting, tort – also if such claims are in connection with buyer's warranty rights – are excluded to the extent permitted by law unless we are liable in cases of gross negligence or intent.–
2. All claims on us for whatever cause in law, except claims under article VIII, become time-barred latest one year after the passing of risk on the buyer even if the statutory limitation is shorter.

X. Final provisions



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1. The place of performance for all supplies and payments under this contract is Wilnsdorf. - The legal venue for all disputes arising out of or in connection with the contractual relationship is Siegen.
2. The relations between the contracting parties are exclusively subject to the laws of the Federal Republic.
3. If any provision or part of a provision in these Terms of Sale and Delivery should be or become invalid and/or violate any statutory provision, such invalidity does not affect the other provisions. In any such case, we can replace the invalid provision with a legally valid provision. This applies, in particular, to contracts with parties other than merchants.