



General Conditions of Sale

Contract Agreement

1. All quotations are given and all contracts are entered into by the Seller subject only to these General Conditions of Sale, even if this is not always explicitly stated, and are to the exclusion of any General Conditions referred to by the Buyer.
2. Any other General Conditions are only valid if approved in writing by the Seller.

Terms of Payment

1. Unless otherwise stipulated, payments shall be effected punctually without deduction.
2. If the Buyer shall fail to pay punctually then the Seller is entitled to claim interest at a rate equal to eight per cent over the base interest rate according to § 247 BGB. The Buyer is free to produce evidence that the Seller's actual expense is lower.
3. All prices are valid plus statutory purchase tax.
4. In the case that import taxes, freight costs etc. shall increase after the contract agreement the Seller reserves the right to adjust his prices accordingly.
5. The Buyer is not entitled to retain or incorporate payments because of any counter-claims, including warranty claims, unless such claims are accepted by the Seller or are legally settled.
6. If the Buyer shall not pay as per contract terms or enter into liquidation or shall any circumstances become known to the Seller giving reason to serious doubts of the Buyer's solvency, credit rating or performance of contract the Seller is entitled to deliver outstanding goods only against the Buyer's advance payment or appropriate securities – subject to other legal or contractual rights or claims.
7. If not otherwise agreed, the Seller's location is the place of payment.
8. One of the essential contract conditions is that payment has to be effected by the Buyer in the contract currency. The Buyer's obligation to pay in the contract currency is not met if the Seller receives payments in any other currency than the contract currency due to a payment by the Buyer with regard to a sentence or its execution unless the payments in this other currency lead to securing the amount to be paid in the contract currency.

Cessation of receivables

1. The seller has the right to transfer the receivables of the buyer to a third party
2. Should the buyer have overdue payments due the seller, then the seller has the right to demand immediate payment for all payables due the seller.
3. The buyers bears all costs, legal and others, in connection with the sellers successful efforts in recovering due and overdue payments from the buyer

Deliveries

1. Only explicitly agreed delivery times shall be binding for the Seller.
2. Unless otherwise specified all deliveries shall be governed by the newest version of Incoterms.
3. Place of fulfilment shall be the fixed delivery parity as per Incoterms.
4. Unless otherwise clearly stipulated, the measurements, weights, quantities and qualities stated in the documentation issued by the Seller or his supplier shall be binding for accounting and settlement.
5. The Seller shall be entitled to make partial deliveries respectively partial execution. Any shortage, delay or possible deficiency of partial deliveries shall not entitle the Buyer to derive any rights as to the missing deliveries or execution.

Conditional Goods

1. The goods and all respective documentation remain the sole property of the Seller until the complete fulfilment of all present and future claims of the Seller towards the Buyer.
2. The Buyer shall be obliged to hold the conditional goods in trust for the Seller, to store them separately and to clearly mark them as the Seller's property until the full purchase price has been paid.
3. The sale or use of the conditional goods is revocable and allowed only in terms of orderly business. The Buyer is not entitled to dispose of the conditional goods, especially as regards pawning or security assignment. The full amount of all claims due to the Buyer in regard to the conditional goods, i.e. resulting from the resale of the goods or due to other legal reasons, shall be transferred by the Buyer to the Seller. The Seller is entitled to collect the transferred claims. This is revocable and can only be done in terms of orderly business. In the case that the Buyer mixes, blends, processes or modifies the conditional goods with other goods not belonging to the Buyer, the Seller shall acquire co-ownership of the new product in the ratio of the invoice value of the conditional goods to that of the other mixed, blended, processed or modified goods.
4. The Buyer's permission to dispose of the conditional goods or to mix, blend, process or modify them and to collect the transferred claims ceases upon the Seller's revocation in the case that the Buyer is not punctual in paying, disposes of the goods without authorisation or if insolvency proceedings are applied for or are taken against the Buyer or if the Seller becomes aware of a considerable deterioration of the Buyer's financial conditions. In these cases the Seller is entitled to withdraw from the contract and to immediately take possession of the conditional goods. For this purpose the Seller is entitled to enter the Buyer's premises, to demand convenient information regarding the conditional goods and possible claims due to their resale as well as to inspect the Buyer's account books as far as this may help to secure the Seller's rights.
5. In the case that the value of the security assigned to the Seller exceeds the Seller's claims by more than 10 % the Seller shall be obliged to release the surplus security upon the Buyer's request.

Force Majeure

In cases of strikes, lockouts, accidents, shortage of transport facilities, Acts of God, fires, explosions, wars, insurrections or other causes beyond the parties' control which lead to any delay in delivery or failure to accept, the hindered party shall be obliged to inform the other party immediately and shall be exempt from its obligations during the persistence of such an event. Acts of God relating to the Seller's supplier are the Seller's Acts of God. After the cessation of such Act of God the Seller is entitled to deliver the quantities still to be delivered to the Buyer at contract terms unless the parties come to any other agreement.

In the case that the Buyer shall refer to an Act of God as regards quantities for which the Seller has already booked transport or storing facilities the Buyer shall be obliged to pay the corresponding charges e.g. for dead freight or cancellation.

Defective Goods

1. In the case that within the limitation period the delivered goods shall be found to be of defective quality caused before transfer to the Buyer these goods shall either be repaired up to two times or be replaced in the Seller's option and at his expense – regardless of their working life.
2. In the case that this should not be possible, the Buyer, regardless of other compensation claims, shall be entitled to either cancel the contract or reduce the price in his option. If the Buyer insists on compensation the Seller is entitled to request the Buyer to keep the goods if this seems possible. The compensation is confined to the difference between the purchase price and the value of the defective goods.
3. Compensation claims are not justified in the case of only trivial quality deviation, in the case of only trivial affection of practicability, in the case of natural wear or damage after transfer of the goods due to incorrect or careless treatment, excessive stress, unsuitable working-stock or in the case of not presumed special external influences.
4. In the case that the Buyer or a third party shall make improper alterations or repair work the Buyer is also not entitled to claim for compensation for these or for resulting consequences unless the Buyer is in a position to prove that the improper alterations or repair work were not the reason for the deficiency.
5. In the case of expenses due to later contract fulfilment, the Buyer's claims especially as concerns costs for transport, labour and material are not justified if these expenses are increased due to the Buyer's delivery of the goods at a later date to a place other than his premises unless this conforms to the designated use of the goods.
6. The Buyer is only entitled to legal recourse claims if the Seller and his customer have not agreed on any claims other than the legal deficiency liability claims.
7. The amount of the compensation to be paid according to item 6. is limited to the Buyer's net cost (e.g. transport and material costs), does however not include the Buyer's sales profit margin.
8. Deficiency liability claims fall under the statute of limitation one year after delivery.
9. Buyer's claims due to damages arising from breach of secondary contract conditions and not leading to deficiency also fall under the statute of limitation after a period of one year.

Liability

1. Buyer's compensation claims, regardless of which plea, shall not be accepted except in cases of intention, gross negligence, harm to life, body or health, or breach of guarantee as per § 444 BGB, inability or breach of important contract obligations. The compensation for the breach of important contract obligations is however limited to the contract typical, foreseeable damage except in cases of intention or gross negligence or if liability is undertaken due to harm to life, body or health. Any change in onus of proof to the Buyer's prejudice is not connected with the aforementioned regulations.
2. Where the Buyer is entitled to claim compensation due to the Seller's confessing to be unable to deliver respectively fulfil the contract terms the Buyer's compensation claim is limited to 10 % of the value of the part of the goods which cannot be used efficiently. This is not effective in the case of compulsory liability due to intention, gross negligence, harm to body or breach of important contract obligations. Any change in onus of proof to the Buyer's prejudice is also not connected with these regulations. The Buyer's right to cancel the contract remains unchanged.
3. Should the Seller not deliver punctually respectively not fulfil the contract terms and should the Buyer be in a position to substantiate a resulting damage, the Buyer is entitled to claim compensation amounting to 0.5 % for each complete week, however for a maximum of 5 % of the price for the part of the goods which cannot be used efficiently, basing on the aforementioned conditions.
4. Buyer's compensation claims due to delayed fulfilment of contract terms beyond those stated in item 3. shall not be accepted even at the end of any possibly set delivery deadlines. This is however not effective in the case of compulsory liability due to intention or gross negligence. Any change in onus of proof to the Buyer's prejudice is not connected with these regulations. The Buyer only has the right to cancel the contract if the Seller justifies the delay in delivery respectively fulfilment of contract terms as per item 1.. Otherwise the Buyer maintains the right to withdraw from the contract.
5. If requested by the Seller the Buyer is obliged to declare if due to delayed delivery respectively fulfilment of contract terms he intends to withdraw from the contract and/or claim compensation instead or if he insists on the delivery of the goods.
6. The regulations of the product liability law are effective without reservation.

Licences

The Buyer is obliged to obtain all official permits or licences needed for import or other permits or licences deemed appropriate for Buyer's further fulfilment in due time before delivery and to keep these licences and permits valid.

Advice and Information

In the case that the Seller shall make any suggestions as to the use of the goods these will base on the status of the technique, the Seller's experience and the information given by the Buyer. These suggestions are however not binding and neither allow any claims by the Buyer as to the results to be achieved nor as regards any breach of rights towards a third party.

Applicable Law

All contracts between the Seller and the Buyer (including questions concerning the settlement and the validity of the contracts as well as the inclusion of these conditions) are subject to German law. The applicability of the UN purchase right (CISG) is excluded.

Jurisdiction

Place of jurisdiction is Düsseldorf. The Buyer is however entitled to institute a law-suit against the Seller or his assets before any other authorised court.

Miscellaneous

1. Information concerning the contract may be given by Telefax.
2. Personal collateral agreements do not exist. Alterations and supplements to the contract are subject to written confirmation. This also applies to any change of this written confirmation clause.
3. The headings in these General Conditions of Sale are only for the purpose of clearness and have no effect as regards the interpretation of these conditions.
4. In the case that one or more of the regulations of these conditions should become ineffective this will not effect the validity of all other regulations nor the contract conditions.