

Terms and Conditions of Quotation, Delivery and Payment

I. Scope

1. The following terms and conditions are final and are an integral part of the contract. They shall apply to all (past and future) contracts and other services. All quotations are exclusively based on our terms and conditions and they shall be deemed as having been accepted through the placement of an order or acceptance of a delivery. Any terms and conditions of the Buyer which conflict with or deviate from our contractual conditions shall not place us under any obligation even if we do not expressly contradict them following receipt.
2. There are no verbal collateral agreements. Any collateral agreements, deviations or modifications shall only be binding when confirmed by us in writing. This applies in particular to any agreements concerning the nature of a product.
3. These terms and conditions only apply to enterprises and to legal entities subject to public law or to institutions bound by public law.

II. Quotations

1. Our quotations are submitted without commitment. The documents accompanying the quotation such as drawings, illustrations, technical data, references to standards as well as information in brochures are not agreements concerning the nature of a product unless they are expressly designated as such in writing.
2. Our patterns and samples and our information on the composition and nature of our products are based on our experience and expertise. However, they are not guaranteed nor is any other assurance binding upon us.
3. We shall retain title and copyright to brochures, illustrations, drawings, diagrams and other documents; they shall not be reproduced, copied from the Internet or made accessible to third parties without our consent and shall be returned to us without delay on request.

III. Contract conclusion

1. An order shall be deemed to have been accepted if it is acknowledged by us in writing or the goods are dispatched.
2. The order acknowledgment shall define the contents and scope of the order. Supplements, amendments or verbal collateral agreements require our written confirmation to become effective.
3. The Buyer shall be responsible for the correctness of the documents to be provided by him, such as drawings, specimens and the like. Verbal information on dimensions and the like shall be subject to our written confirmation.

IV. Prices

1. Our prices are in EURO for delivery ex works Engelskirchen excluding packaging, freight, postage, customs fees and insurance. Surcharges and discounts shall be calculated on the basic price in each case. The same shall apply to partial consignments and express deliveries requested by the Buyer.

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2. The minimum order value is EUR 130 net. For orders with a value of less than EUR 130 net a handling fee of EUR 15 will be charged.
3. The prices shall be subject to VAT at the current rate.
4. The prices as stated in the order acknowledgement shall be valid for a delivery period of up to four months; in the case of longer delivery periods, the prices ruling on the date of delivery shall apply if our cost price, e.g., material costs, wages or other production costs have changed.

V. Terms of payment

1. Our invoices shall be due within 14 days from the date of invoice less 2% discount or 30 days net. Payment shall be made within these deadlines so that the invoiced amount is available to us not later than on the due date.
2. When the time scheduled for payment is exceeded without payment having been made, we will charge interest on the sum owed at a rate of 8% above the basic rate of interest of the European central bank. We reserve the right to claim higher damages as a result of a default in payment.
3. Initial deliveries shall always be made against cash in advance or cash on delivery.
4. Bills of exchange (acceptance only if agreed in writing) and cheques shall only be accepted on account of performance. Discount and collection charges shall be borne by the Buyer. We accept no liability for punctual presentation.
5. If we have justified doubt concerning the ability of the Buyer to be able to keep up proper payment, e.g. insolvency proceedings, imminent discontinuation of payment or a serious deterioration in the financial circumstances of the Buyer, we shall be entitled to hold back deliveries not yet made. In such a case we may decide that all our claims will immediately become due for payment without considering the terms of any cheques that may have been accepted or we may set the Buyer a reasonable deadline for payment against delivery or for the provision of a form of security and, if the deadline passes without results, to withdraw from the further performance of our contractual obligations. If a petition in bankruptcy of the Buyer has been filed, we may immediately withdraw from the contract. This shall not release the Buyer from his obligations arising from parts of the contract we have already fulfilled, former contracts or contracts which have not yet been carried out.
6. We reserve the right to assign claims.
7. The Buyer shall only have the right of setoff, if his counterclaims have become res judicata, are undisputed or have been recognised by us. Furthermore, the Buyer shall be entitled to exercise a right of retention insofar as his counterclaim is due and associated with the same contractual relationship.

VI. Reservation of title

1. The goods delivered shall remain our property ("retention of title goods") until full payment of all (also future) claims including all ancillary claims (e.g. costs of bills, financing costs, interest etc.) arising from the business relationship between us and the Buyer. Payment shall be deemed to have been made when we receive the sum due.

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2. The Buyer must treat the retained title goods with care. We shall be entitled to insure the goods, at Buyer's expense, against theft, breakage, fire, water and other damage, provided that the Buyer is unable to verify he has taken out such insurance himself.
3. The Buyer shall be entitled to process or mix and sell the goods in the normal course of business. The processing or conversion of the goods by the Buyer shall always be performed on our behalf. If the goods are processed to incorporate other items which do not belong to us, we shall acquire joint ownership of the new article in the ratio of the value of the contract goods to the other processed items involved at the time of processing. The same shall apply to the items produced by processing the goods delivered in respect of reservation of title.
4. If the Buyer sells the goods before payment of all secured claims, he shall assign to us his claims against his customers or against third parties arising from the resale on conclusion of the supply contract as security for the claim secured by the goods. We will accept assignment. We herewith authorise the Buyer, until such authorisation is revoked, to collect the assigned claims. We shall be entitled to revoke such authorisation if our secured claims are jeopardised, in particular if the Buyer defaults on his payments. The collection authorisation shall expire ipso jure at the time when the Buyer discontinues his payments or files a petition in bankruptcy. After the revocation or expiry of the collection authorisation we shall be entitled and the Buyer shall be obliged to report the assignment to the debtor of the assigned claim. The Buyer shall refrain from collection but, nevertheless, keep any sums received for us separate. The Buyer shall, at our request at any time, inform us in writing to whom he has resold the goods and shall provide all information and documents relating to the assigned claim.
5. We undertake to release the securities due to us at the Buyer's request insofar as the value of our securities exceeds the claims to be secured by more than 20%; and we shall be free to select the securities to be released.
6. Extraordinary disposal such as pledges or chattel mortgages require our approval. The Buyer shall inform us in writing without delay of any pledging or other interventions by third parties and shall provide us with all information and documents which may be required to protect our rights. This also applies if such measures are pending. The executing officer or third parties must be notified of our property. The Buyer shall bear all costs which arise as a result of abrogating access and recovering retention of title goods unless these can be recovered from third parties.
7. If the Buyer behaves in a manner which is contrary to the provisions of contract, in particular if he is in default of payment, we may, after a reminder, recover the items sold, and the Buyer shall deliver same. If we withdraw from the contract in the event of a petition in bankruptcy according to clause V. 5, we may request immediate restitution of retention of title goods.

VII. Delivery periods

1. The delivery period may be agreed as being binding or without commitment and shall be confirmed in writing. It shall not commence before the receipt of the documents and releases to be obtained by the Buyer and before the receipt of any agreed down payment and compliance with all other obligations of the Buyer.

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2. The delivery period shall be deemed to have been observed if, before it has expired, the goods have left our works or notification has been given that the goods are ready for dispatch. The delivery period shall be prolonged by a reasonable period - also during a delay in delivery - if unforeseen hindrances occur which we are unable to avoid despite due care being taken under the circumstances, regardless of whether such hindrances occur at our works or at one of our subcontractors' works, who is therefore unable to supply us in good time, e.g. disruptions to operations, effects of action during labour disputes or similar. If delivery or service becomes impossible owing to the above-mentioned circumstances, we shall be released from our delivery obligations.
3. The delivery period shall in particular be extended if and when we are unable to observe the delivery date due to untimely or incorrect delivery by our own suppliers to us. This shall apply under the premise that we had closed a corresponding deal with our supplier to cover our supply needs for the contract at the time of conclusion of the contract with the Buyer. We will submit documentation of timely conclusion of such contract upon request by Buyer.
4. Should delivery or performance become impossible due to the circumstances listed above under items 2. and 3. or should delivery be delayed by more than six weeks, both the Buyer and we shall be entitled to rescind this contract without incurring any liability for damages.
5. We may make partial deliveries to a reasonable extent.

VIII. Scope and performance of delivery; transfer of risk

1. Our delivery note shall define the scope of the delivery. One packing unit shall be the minimum order quantity.
2. Quantity discrepancies shall be reported in writing within 8 days of receipt.
3. Stocked goods listed in catalogues shall be delivered in the specified packing units. We reserve the right to change the packing units.
4. For production reasons, excess and short deliveries of up to 15% shall be admissible for products which are not kept in stock.
5. We reserve the right to make technical changes to our products in line with ongoing research and development.
6. The risk in all business transactions, including carriage paid deliveries, shall pass to the Buyer on the handover of the goods to a forwarding agent or carrier but at the latest when the goods leave the warehouse or - with direct shipment business - the supplier's works. We shall take out insurance against transport damage at the express request of the Buyer and at his expense.
7. In the case of call-off orders, deliveries shall be made on the Buyer's call-off. The deadline for acceptance shall be 12 months from the date of the order acknowledgment. We shall be entitled to produce the entire order quantity in one batch. Any requests for changes may no longer be allowed for after the order has been placed, unless this has been expressly agreed. Amounts which have not been called off at the time of expiry of the aforementioned period shall be sent to the Buyer at that time and invoiced.

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IX. Claims Based on Defects

1. For the assertion of claims based on defect, the Buyer must have complied with his examination and notification obligations arising from the commercial code. If the goods are defective, we undertake, at our discretion to supply items free from defects (replacements) or to rectify the defects. In the event of a rectification of defects, we shall bear all costs required to rectify the defect unless such costs are increased by the fact that the item is delivered to another place than the place of performance. If rectification of defects or replacement fails, the Buyer may at his discretion withdraw from the contract or reduce the purchase price. Generally the Buyer has to accept two replacement or rectification attempts.
2. We shall be liable for replacement deliveries and rectification to the same extent as for the original goods delivered. For replacement deliveries the statute of limitations for claims based on defects shall commence anew. The statute of limitations is 12 months. It begins running on the date of delivery of the goods to the Buyer.
3. No liability shall be assumed for damage which has occurred for the following reasons: Unsuitable or improper storage and use, incorrect assembly and/or commissioning by the Buyer or third parties, natural wear and tear, improper or negligent handling, inappropriate process materials, chemical, electrochemical or electrical influences, provided that they are not our fault. We shall have no liability for any changes or repair work undertaken by the Buyer or third parties improperly without our prior consent and for any consequences resulting therefrom.

X. Liability

1. We are liable for the full extent of damage in the event of intentional behaviour by us and by our executives and in the event of gross negligence through our own fault or through the fault of our vicarious agents. In addition, we are fully liable in the case of non-observance of guarantees, when taking a procurement risk and in case of other definite promises, in the case of culpable injury to life, body and health and under the product liability law. In the case of culpable violation of essential contractual obligations, i.e. principal obligations which enable the proper execution of the contract and upon which the Buyer therefore relies and may rely, we undertake liability on the merits. Our liability shall be limited to damage which is typical for the contract and which can be reasonably foreseen. Any liability beyond the above limits is explicitly excluded.
2. Insofar as our liability is excluded or limited, the same applies to the personal liability of our employees, employees' representatives and agents.
3. These provisions are not aimed at reversal of the burden of proof.

XI. Return and exchange

The Buyer shall be entitled to return and exchange items within four weeks after delivery without giving a reason therefore and by providing us with our commission number. The goods shall be returned carriage paid. The right to return and exchange shall be without prejudice to Buyer's claims based in defects pursuant to item IX. herein.

We shall charge EUR 25 for the processing costs thus incurred.

Special designs may not be returned.

XII. Place of performance, venue, applicable law, partial invalidity, data protection

1. Engelskirchen shall be the place of performance for all obligations of both parties arising from the contract.
2. The venue for all disputes with buyers who are merchants as defined by German law, legal entities subject to public law or institutions bound by public law shall be the court having jurisdiction over our domicile. However, we reserve the right to bring legal action at the Buyer's domicile.
3. German law shall apply to cross-border deliveries. International conventions on the sale of goods (e.g. United Nations Convention On Contracts For The International Sale Of Good) shall not apply.
4. If individual provisions of the contract or of these conditions are invalid, the remaining provisions shall continue to be effective and binding. In the event of partial invalidity of an individual provision, the remainder of such a provision shall remain effective.
5. In accordance with Section 33 (1) of the Federal Law on Data Protection, we point out that we store and use all customer and supplier related data using electronic data processing.