

1. Exclusive Application of our Terms and Conditions

Our quotations, deliveries and services are provided solely subject to these General Terms and Conditions of Business and also apply to all future supplies and services, even if they are not expressly agreed again. The application of terms and conditions of business other than our own is expressly excluded. General terms and conditions of the Buyer or other terms or conditions of the Buyer deviating from our own are binding on us only if we expressly acknowledge the same in writing. Our Terms and Conditions of Business apply even if we make delivery to the Buyer without expressing reservations in the knowledge that the terms of the Buyer conflict with or deviate from our Terms and Conditions of Sale. All agreements made between us and the Buyer for the purpose of performing this Contract are recorded in writing in this Contract.

2. Ancillary Agreements to our Quotations – Contents of the Contract

2.1 Ancillary agreements regarding our quotations and order confirmations and agreements with our travellers and representatives are binding upon us only if we confirm the same in writing within a period of one week.

2.2 Our quotations are without obligation, i.e. a contract comes into being only if we confirm the order.

2.3 In case of doubt, our written confirmation of order is solely determinant for the contents of the Contract.

2.4 We reserve all title and copyright to illustrations, drawings, calculations and other documents. This also applies to written documents that are described as "confidential". Before passing on the same to third parties, the Buyer must obtain our express written consent.

3. Scope of Delivery

3.1 The scope of delivery is determined by our written confirmation of order.

3.2 We reserve the right to deliver the goods ordered with deviations in properties, material, purity, colour, dimensions and other characteristics, if this is required on technical grounds or by specifications of the legislator.

3.3 If the goods ordered are produced specially to perform the order, short deliveries or excess deliveries by up to 10% of the quantity ordered are deemed to be in conformity with the Contract. This does not include supplies of customized material or products of "TOP-Protect-series", for these up to 20% apply according to contract.

4. Prices

4.1 Unless otherwise indicated, we are bound by the prices set in our quotations for 30 days from their date of issue.

4.2 Unless otherwise agreed, prices are quoted ex (Solingen) warehouse, including normal packaging, plus the separately shown rate of value-added tax, however, exclusively of customs duties and insurance. Additional deliveries and services are charged separately.

4.3 Should the delivery take place more than 6 weeks following contractual closure, we are entitled to increase the price agreed upon if the prices for the costs of materials, the cost prices according to the market prices or any other costs connected to our goods (including public easement) valid at the closure of contract and delivery have increased; the buyer can only withdraw from the contract if the price increase surpasses 5% of the agreed price. The price increase becomes valid as soon as we have notified the buyer in writing.

5. Blanket Orders – Goods Distribution - Part Deliveries

5.1 In the case of blanket orders, the total order quantity is deemed to have been called up one month after expiry of the period agreed for call-up or, in the absence of such agreement, twelve months after conclusion of the contract.

5.2 If the Buyer does not undertake the apportioning of the goods incumbent upon it within one month of expiry of the period allowed for the said apportioning at the latest or, in the absence of any such agreement, then within one month of our making a demand to that effect at the latest, we may apportion and deliver the goods at our discretion.

6. Shipping

6.1 The packaging is generally disposable packaging that may not be returned to us. Special types of packaging shall be billed separately.

6.2 We ship the goods by the most favourable method at our choice and discretion. The risk passes to the Buyer as soon as the consignment has been handed over to the person undertaking transport or when it has left the warehouse for the purpose of shipment.

7. Delivery Period

7.1 The delivery period we have quoted does not begin until after prior clarification of all technical matters. Another condition for adherence to our delivery obligation is the proper and timely performance of the Buyer's obligations. We reserve the use of the defence that the Buyer has not performed its part of the Contract.

7.2 If delivery is delayed by circumstances beyond our personal control, in particular, as a result of force majeure, intervention by the authorities, industrial action, difficulties arising in the procurement of materials, production faults or similar, the delivery period is extended by the duration of the obstruction. An obstruction which lasts longer than four weeks and whose end is not in sight gives the Buyer and us the right to withdraw from the contract if, as a consequence of the obstruction, we are unable to perform the contract.

7.3 In the event of a delay in delivery, the Buyer must grant us a reasonable extension for subsequent delivery of at least four weeks. Only after this period has passed and we have not shipped the goods ordered within this extended period, is the Buyer entitled to withdraw from the contract.

7.4 If we are responsible for failure to adhere to delivery periods/dates confirmed with binding effect or we are in default, the Buyer has the right to default compensation equal to 1/2% for each complete week of default, however, a maximum of up to 5% in total of the invoice value of the supplies and services affected by default. All further claims are excluded, unless default is due at least to gross negligence.

7.5 We are entitled to undertake part deliveries at all times and invoice each of them separately. The Buyer must accept part-deliveries unless the Buyer can prove that a part delivery is of no interest.

7.6 If the Buyer is in default with acceptance or culpably breaches any other duties of cooperation, we are entitled to claim compensation for the damages we have suffered in this respect, including any extra costs. All rights to claim higher damages are reserved.

8. Liability for Defects

8.1 We give no warranty whatsoever that the goods ordered are suitable for the purpose intended by the Buyer or that they can be utilised or processed under the conditions prevailing with the Buyer or the Buyer's customers; instead it is the responsibility of the Buyer to test the same prior to utilisation or processing.

8.2 The Buyer must notify us of defects in writing without delay, but within one week of receipt of the deliveries at the latest. Defects which could not have been discovered within this period, even with immediate examination, must be notified in writing without delay after their discovery. For complaints regarding quantities, the delivery notes enclosed with the goods must be sent back to us. If the Buyer fails to notify a defect without delay or on time, or if the goods were modified after the defect was discovered or could have been discovered, the Buyer forfeits all rights under the warranty.

8.3 Defects in a part of the goods delivered do not give the Buyer cause to reject the entire delivery, unless the Buyer proves that, because of the defects ascertained, the part delivered free of defects is of equally no interest.

8.4 If there is a defect in the goods, the Buyer is entitled at its discretion to require subsequent performance in the form of elimination of the defects or delivery of a new item free of defects. In the event of elimination of the defect, we are obliged to pay all expenses incurred for the purpose of eliminating the defect, in particular the transport and travelling expenses, labour and material costs, provided that these are not higher as a result of the purchased item having been taken to a place other than the place of performance. In the event of delivery of a new item free of defects, the Buyer is obliged to return the defective goods to us in advance, in which case the costs incurred are payable by us. If subsequent performance fails, the Buyer is entitled at its discretion to withdraw from the contract or require a reduction in the selling price.

8.5 We are liable under the statutory regulations if the Buyer claims compensation for damages based on malicious intent or gross negligence, including malicious intent or gross negligence on the part of our representatives or employees. Unless we are guilty of a deliberate breach of contract, liability to compensate for damages is limited to the foreseeable damage that would typically have occurred.

8.6 We are liable under the statutory provisions insofar as we have deliberately breached an essential contractual duty; in this event, however, the liability to compensate for damages is limited to the foreseeable damage that would typically have occurred. This does not affect liability for culpable harm to life, physical injury or harm to health; the same applies to the mandatory liability under the Product Liability Act (Produkthaftungsgesetz).

8.7 Except as otherwise stipulated above, liability is excluded.

8.8 The period of limitation for warranty claims is 2 years starting at the transfer of risks, if the customer is a company or other contractual partner as defined in § 310 (1) sentence 1 German Civil Code (BGB), than the limitation period is one year.

8.9 Warranty claims of the Buyer accrue to the Buyer only and are non-transferable.

9. Limitation of Liability:

- 9.1 All liability to compensate for damages going beyond that provided for in Article 8 is excluded – regardless of the legal basis of the claim – with the exception of the sales of consumer goods. This applies in particular to claims to compensation for damages arising from *culpa in contrahendo*, other breaches of duty or claims in tort as per §823 Civil Code (BGB).
- 9.2 Where our liability to compensate for damages is excluded or limited, such exclusion or limitation also applies in respect of the personal liability to compensate for damages of our employees, representatives and agents.
- 9.3 If the Buyer exports our goods to territories outside the Federal Republic of Germany, we assume no liability for any breach of the proprietary rights of third parties by our goods. The Buyer is obliged to compensate for all damages resulting from the export of our goods, which we did not deliver expressly for export.

10. Invoices - Payments

- 10.1 We issue an invoice as soon as the goods ordered are ready for shipment or collection. Delays in the shipment or collection of the goods or in the delivery of the invoice for which we are not responsible do not postpone the date for payment of the invoice.
- 10.2 Our invoices are payable immediately and must be paid without making any deduction within 30 days of the invoice date. Thereupon the Buyer is in default without necessitating the sending of a reminder. Should the buyer default payment, we are entitled to charge interest to the amount of 5 percent above the respective current base rate, if the customer is a company or other contractual partner as defined in § 301 (1) sentence 1 German Civil Code (BGB), the interest rate is 8 percent above the respective current base rate.
- 10.3 If the Buyer pays the entire invoice within 10 days of the invoice date in cash or by cheque, the Buyer is entitled to deduct 2% discount.
- 10.4 If circumstances become known after conclusion of the contract which give us cause to doubt the creditworthiness of the Buyer, we may, at our discretion, require payment in advance or the furnishing of a security. The same applies if the Buyer fails to meet a payment obligation incumbent upon the Buyer when payment becomes due to us. In the event of one of these cases occurring, all receivables accruing to us from the Buyer, including those from other transactions, automatically become due immediately.
- 10.5 If we accept cheques or bills of exchange, this always occurs only on account of payment. In these cases, we accept no liability for timely presentation or making of protest. The costs of discounting, taxation and collection are at the expense of the Buyer, who must refund these sums without delay on request.
- 10.6 Cash payments, bank giro transfers or cheque payments, which are made in return for a bill of exchange issued by us and accepted by the Buyer, are only deemed to be payment if the bill of exchange is honoured by the drawee and, therefore, we are released from liability under the bill of exchange. The agreed reservation of title (without prejudice to any more extensive agreement) and the other rights of reservation remain valid in our favour at least until the bill of exchange has been honoured.
- 10.7 We are entitled to assign claims stemming from deliveries and services for the purpose of refinancing.
- 10.8 Regarding deliveries and services rendered to buyers from abroad, it is expressly agreed upon that all costs of prosecution an action by us due to default of payment, judicial as well as extrajudicial, will be borne by the buyer
- 10.9 Set-off rights are entitled to the buyer only if its counterclaims are determined legally, undisputable or accepted by us. Rights of retention of goods of the buyer, which are based upon another contractual agreement, are excluded. Rights of retention of goods of the buyer, which are based upon the same contractual agreement, are also excluded if the purchaser is a contractual partner as defined in § 310 (1) sentence 1 German Civil Code (BGB) and the counterclaim is undisputed or not legally binding.

11. Reservation of Title

- 11.1 Until the satisfaction of all receivables, including all outstanding account balances from the current account, accruing to us from the Buyer now or in the future regardless of the legal basis, the Buyer furnishes the following securities that we shall release at our discretion on request provided that their value exceeds the value of our receivables by more than 20%.
- 11.2 The goods delivered by us remain our property until all receivables arising from the specific order have been settled. With regard to companies and other contractual partners as defined in § 310 (1) Sentence 1 German Civil Code (BGB), we reserve title until satisfaction of all receivables accruing to us from the Buyer out of the business relations on any legal basis whatsoever.
- 11.3 If our (share of) title is extinguished by combination with other items, it is now hereby agreed that the (share of) title of the Buyer in the combined item (pro-rata value of the invoice value) passes to us. The Buyer keeps the sole title or shared title safe for us free of charge.

11.4 The goods to which we reserve title or a share thereof may only be sold, processed or combined with items of different origin in the course of normal business operations. Alienation is possible only by way of sale and only permitted on condition that the receivables of the Buyer arising from the sales transaction pass to us as defined above. The validity of the contract of sale and the obligations of the Buyer remain unaffected by any such demand and by the surrender of the goods.

11.5 In the event of conduct that breaches the contract by the Buyer, in particular default in payment, we are entitled to recover the goods after sending a reminder and the Buyer is obliged to surrender them. Our recovery of the goods constitutes withdrawal from the contract. We are entitled to sell the goods after recovering them. The proceeds of sale must be applied to settle the liabilities of the Buyer after deducting the reasonable costs of sale.

11.6 When our General Terms and Conditions of Business apply to companies or other contractual partners as defined in § 310 (1) Sentence 1 German Civil Code (BGB), the following applies additionally: the Buyer is entitled to process and resell the delivered goods in the proper course of business. Pledges or transfers of ownership for security purposes are inadmissible. The receivables arising from the resale or another legal ground (insurance, tort) in respect of the reserved-title goods (including the balance of all receivables) from the current account, are already now assigned to us as security in the full amount regardless of whether the reserved-title goods were delivered to one or more customers.

11.7 The Buyer is revocably empowered to collect the receivables assigned to us in its own name for our account. The assignment or pledging thereof is inadmissible. The authorisation to collect the receivables can only be revoked if the Buyer fails to duly comply with its payment obligations or if we become aware of circumstances that cause our rights to appear to be in danger. The collection authority of the Buyer is extinguished in particular without more if the Buyer ceases to make payments, is ordered by the court to disclose its asset position, a petition is made for the opening of insolvency proceedings on its assets or it seeks extra judicial settlement for this purpose.

11.8 At our request, the Buyer must notify the debtors of the assigned receivables of their assignment and notify us of the debtors and the amounts owed by them and surrender to us the documents we require to claim the receivables assigned.

11.9 In the event of attachments of the reserved-title goods or other interventions by third parties, the Buyer must draw attention to our title and notify us in writing without delay so that we may bring an action under § 771 Code of Civil Procedure (ZPO). If the third party is not in a position to refund the judicial and extra judicial costs of an action under § 771 ZPO, the Buyer is liable for the loss we have sustained. In the event of conduct breaching the contract by the Buyer or if we become aware of other circumstances which cause our rights to appear to be in danger, we are entitled to recover the items sold. Our recovery of the goods sold constitutes withdrawal from the contract.

11.10 If we accept the returned goods carriage paid while releasing the Buyer from its duty of acceptance, we may require that the Buyer pay 25% of the invoice amount for the goods as damages for non-performance. The Buyer has the right to prove that the damages suffered were lower.

11.11 The reservation of title is subject to the condition subsequent that title to the reserved-title goods and to the receivables assigned passes to the Buyer on full payment of all our receivables arising from the business relations.

12. Prohibition of Disposal

The assignment of rights and duties of the Buyer under the contract concluded with us requires our written consent in order to be valid.

13. Severability Clause

Should any provision of this General Terms and Conditions of Business be invalid or should there be an omission, this shall not affect the validity of the remaining provisions.

14. Place of Performance - Court of Jurisdiction -Governing Law

14.1 Place of performance for delivery and payment is Solingen.

14.2 Exclusive court of jurisdiction for all disputes is the local and regional court competent for Solingen. However, we have the right to bring an action against the Buyer at another court of jurisdiction competent for the Buyer. If the Buyer is not a company or does not otherwise satisfy the requirements of § 310 (1) Sentence 1 German Civil Code (BGB) but has a general court of jurisdiction in Germany, these provisions apply in the event that the Buyer relocates its registered office or usual place of residence to a place outside the Federal Republic of Germany after conclusion of the contract or in the event that its registered office or usual place of residence is unknown at the time of bringing the action.

In the case of foreign transactions, the entire contractual relations are governed by the law of the Federal Republic of Germany unless another legal system has mandatory application; application of the UN Convention on Contracts for the International Sale of Goods is excluded.