

Delivery Terms and Conditions

1. Scope of the Delivery Terms and Conditions

These Delivery Terms and Conditions shall be valid for all business transactions between the Customer and us. They shall be valid for all ongoing business transactions which have not yet been concluded as well as for all future business transactions even if express reference is no longer made to them.

Deviating or supplemental terms and conditions of the Customer shall only then be considered to be a contractual component if we have expressly approved them in writing.

2. Orders

Our written order confirmation shall be prevailing for the Delivery Agreement. Amendments and supplements require our written confirmation.

The offers are considered to be non-binding.

The documents enclosed with the offer such as illustrations, drawings, measurements and weight data shall only then be considered to be binding if they have been expressly designated as such.

3. Prices

Our prices are quoted in euro ex works excluding packaging, transport, insurance, customs duties and VAT.

4. Delivery time frame

Information about delivery time frames shall be considered to be non-binding. Binding delivery time frames shall require a special written agreement.

If a delivery time frame or delivery deadline is agreed, then adherence to it shall require that the Customer fulfil its contractual obligations. A delivery time frame shall be considered to begin to run upon the date that the order confirmation is dispatched. The delivery time frame or delivery deadline shall be considered to have been adhered to if the goods have been sent by the time that the delivery time frame or delivery deadline lapses or notification of readiness for delivery has been sent.

Furthermore, the delivery time frame shall only then begin to run when the Customer has fulfilled all of its payment claims that have come due, even from other agreements provided that we have expressly demanded their fulfilment.

If we are responsible for the failure to meet a delivery deadline, then the Customer may rescind the individual agreement after having provided us with an appropriate extension period in writing and this extension period has lapsed unsuccessfully. Damage compensation claims of the Customer shall be excluded unless we have committed intentional wrongdoing or gross negligence.

If we are prevented from making the delivery owing to force majeure, then the delivery time frame shall be extended without further action or notice for the duration of the force majeure event plus an appropriate start-up period. Force majeure shall be considered to be unforeseeable circumstances for which we are not responsible and which make the delivery unreasonably difficult or impossible for us. Examples of force majeure are delivery delays from our own designated suppliers, labour disputes, governmental measures, shortages in raw materials or energy, major operational disruptions such as owing to the destruction of the company as a whole or important divisions thereof or the loss of indispensable production equipment, grave transport disruptions, e.g. through road blockades, labour disputes in the transport industry, energy shortages and driving bans. If these sets of circumstances last more than four months, we shall also have the right to rescind the agreement. Upon the Customer's request, we must declare whether we intend to rescind the agreement or to make delivery within an appropriate extension period which we choose. Damage compensation claims asserted by the Customer are excluded.

5. Delay in delivery acceptance, delivery in partial quantities or by call-off orders

If the Customer does not promptly pick up the goods about which a notification of readiness for shipment has been made or it does not promptly call off goods which are subject to call-off delivery, then we shall be entitled to store the goods at the expense and risk of the Customer and to demand the payment of the purchase price or after the lapsing of a reasonable grace period, to refuse to fulfil the agreement and demand damage compensation.

We shall also be entitled to make partial deliveries. We may issue partial invoices for partial deliveries. The payment time frames shall run separately for each partial invoice.

6. Transport and passage of risk

Unless otherwise agreed, the shipment shall be made at the Customer's expense.

The shipment shall be made at the Customer's risk. The same shall apply even if we have, as an exception, obligated ourselves to pay the transport costs.

Risk shall pass to the Customer as soon as the delivery has left our factory even if partial deliveries are made or we have provided other services such as, e.g., mounting services. If the shipment is delayed owing to reasons for which we are not responsible or owing to the Customer's conduct, then risk shall pass to the Customer when we make notification of the readiness for shipment to the Customer.

Unless the Customer has made instructions to the contrary, we shall choose the transport method, transport route and transport insurance to be taken out without being responsible for ensuring that the fastest or cheapest option is chosen. Damage compensation claims owing to non-adherence to shipping instructions or defective packaging of the goods shall be excluded except in cases of intent or gross negligence. The exclusion of liability shall not be valid for damages owing to loss of life, physical injury or damage to health.

In the event that the goods are damaged or lost in transport, the Customer must ensure that the carrier promptly prepares a factual report about this set of circumstances.

7. Payment terms and conditions

All payments must be made in a manner whereby we incur no charges.

Invoices shall be payable with no discounts within 30 days after the invoice date. In the event that payments are made within 14 days after the invoice date, we shall grant a 2 % discount. No right to claim a discount shall exist if invoices are past due.

If the payment time frame of 30 days is not met, then we shall have the right to charge interest in the amount of 8 % above the base lending rate from this point in time.

The Customer may offset only uncontested or final claims against a claim by us. The Customer is allowed to assert a right of retention only if it is based upon the same contractual relationship.

If the Customer is in default with payments that come due or we become aware of sets of circumstances which substantiate justifiable doubt in the solvency or creditworthiness of the Customer, then we shall be entitled, at our choice, to demand either advance payment or the provision of security. If this demand is not satisfied, then we shall moreover have the right, after the lapsing of a reasonable grace period, to refuse to fulfil the agreement and to demand damage compensation.

8. Retention of ownership

The delivered goods shall remain our property until the Customer has settled all payment claims which we have against it now or will have against it in the future. Included among the claims are also payment claims involving checks and bills of exchange as well as pending payment claims. If we incur liability from a bill of exchange in conjunction with the payment, then the retention of ownership shall only then lapse when our liability from the bill of exchange is excluded.

The Customer may sell the goods to which we reserve ownership during the ordinary course of business transactions unless it is in payment default or has discontinued its payments. It may not pledge the goods or assign them as a security.

If the Customer sells these goods to which we retain title, then it shall already now assign to us the rights to which it is entitled from the sale against its end customers with all ancillary rights,

security and retentions of ownership until it settles all our payment claims against it. We may demand that the Customer notify its end customers of such an assignment and provide us with all information and documents which are required for collection of the payment claims. However, the Customer may collect the payment claims assigned to us as long as it is not in payment default or has not discontinued its payments.

We shall be entitled to disclose to the third-party debtor the assignment of the payment claim for good cause. When notification of this assignment is made to the third-party debtor, the Customer's right to collect the payment claims shall lapse.

If the value of the reserved goods together with the security otherwise provided to us exceeds our payment claims against the Customer by more than 20 %, we shall be obliged to release a portion of the security upon request by the Customer.

The Customer must promptly notify us and lodge an objection if the reserved goods, other objects or payment claims to which we hold rights are attached by third parties or other claims are asserted. This must also be done even if such restrictions are merely to be feared. The required documents must be enclosed with the notification. The Customer must reimburse us for any costs we incur.

The Customer shall be obliged to sufficiently insure the reserved goods at its own expense against loss and damage while naming us the beneficiary of the policy. In the event that there is an insured event, any insurance claims shall be hereby assigned to us.

If the Customer enters into payment default or it becomes recognisable that the payment claims of the Supplier are put at risk through the unsatisfactory solvency of the Customer, then the Deliverer shall be entitled to demand the return of the goods based upon the retention of ownership. A rescission of the agreement is not required in order to demand the return of the goods.

9. Claims for defects and liability

If there are defects, we shall be entitled in every case to elect between curing defects and delivering new goods. Should the cure fail, the Customer shall have the right to abatement of price or, at his option, to withdraw from the contract. The Customer's right to claim damages in lieu of performance in accordance with statutory provisions and these terms and conditions.

There is no liability for wear and tear, dilapidation and defects which are caused by improper care, storage or an unreasonable use of the goods. Should the Customer claim damages in lieu of performance or perform self-remedy, the rectification shall be deemed to fail only after an unsuccessful second attempt. The statutory cases where setting a time limit can be dispensed with shall not be affected.

The Customer shall pay such expenses as are necessary for the purposes of cure, so far as they increase by the deliveries or services being transferred to a place other than the Customer's branch, unless the transfer conforms to their intended purpose. We shall be liable in cases of

wilful intent or gross negligence by ourselves, one of our representatives or agents in accordance with the law. Otherwise, we shall be liable only under the Product Liability Act, for harm to life, limb or health or on account of culpable breach of fundamental contract obligations. However, the claim for damages for the breach of fundamental contract obligations is limited to the average, foreseeable loss or damage. Our liability is also limited in cases of gross negligence to the average, foreseeable loss or damage if none of the exceptions listed in sentence 2 of this paragraph exists.

> However, liability for loss or damage caused by the article delivered to other legal interests of the Customer or third parties (e.g. loss or damage caused to other things) is excluded. This shall not apply so far as wilful intent or gross negligence exists or there is liability owing to harm to life, limb or health.

The provisions of the foregoing paragraph shall extend to damages in addition to performance and damages in lieu of performance, on whatever legal ground, in particular on account of defects, breach of obligations arising out of the contractual obligation or out of tort. So far as there are still due in our favour receivables arising out of other deliveries made to the Customer, we are bound to provide contract cure only as and when these debts are satisfied.

10. Time-barring

The time limit for remedies and rights owing to defects in the deliveries/services - on whatever legal ground - shall be one year. However, this shall not apply in the cases of § 438 (1) No. 1 Civil Code (legal defects in the case of immovable things, § 438 (1) No. 2 Civil Code (building structures, things for building structures), § 479 (1) Civil Code (the contractor's recourse remedy) or § 634a (1) No. 2 Civil Code (building structures or works, the success of which consists of rendering design and supervisory services for the purpose). The time limits mentioned in the foregoing sentence 2 shall be subject to a time limit of three years. The time limits under Para. 1 shall also apply to all claims for damages against us which are connected with defects - irrespective of the legal basis of the remedy -. So far as claims for damages of any nature subsist against us and which are not connected with a defect, they shall be governed by the time limit of this paragraph under (1) sentence 1.

The time limit under the foregoing paragraphs 1 and 2 shall apply with the following proviso:

- a) The time limits generally do not apply in the event of wilful intent.
- b) The time limits shall not apply even if we have concealed the defect in bad faith. Where we have concealed a defect in bad faith, the statutory time limits which would apply without the existence of bad faith and exclusion of extension of the time limit in the event of bad faith pursuant to §§ 438 (3) and/or 634a (3) Civil Code shall apply instead of the time limits mentioned in paragraph 1.
- c) Moreover, the time limits shall not apply to claims for damages in cases of harm to life, limb, health or freedom, to remedies under the Product Liability Act, to a grossly negligent breach of duty or to breaches of fundamental contract obligations.

11. Place of performance, governing law and jurisdiction

The legal relations between the Customer and ourselves shall be governed by German law. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not be applicable.

Keltern shall be the place of performance for both parties' services.

Pforzheim shall be the venue for all disputes, also arising out of cheques and bills of exchange, if the Customer is a merchant, a public corporation and/or a statutory undertaking or has no general jurisdiction in the Federal Republic of Germany.

We are also entitled to sue at the Customer's place of business.