

In general

Conforming to handling with traders, special funds under public law and legal entities the following conditions are serving for our offers, deliveries and activities, insofar as no other written agreements are stipulated. Divergent conditions are only effective if they have been acknowledged by ourselves in written form. The following stipulations are unconditional valid too, when achieving our deliveries with reproach, although being fully aware of conflicting or differing conditions of the buyers compared with our conditions. These conditions are serving for all deliveries to buyers in the future.

1. Conclusion of a contract of delivery

1.1. Oral agreements before or with the formation of a contract require for their efficacy our written confirmation.

1.2. In case that the buyer does not accept our offer within 2 weeks after receipt, we remain bound to our offer.

2. Delivery, time for delivery, delay

2.1. Deliveries are carried out in articles of sale compliant of types as agreed property. Divergences within the usual margin remain reserved.

2.2. Part deliveries and corresponding accountings are allowed unless they are not economically reasonable for the buyer.

2.3. Incidents of force majeure – even those caused by sub-suppliers – entitles us to interrupt the execution of the orders during the period of the event, insofar as we could not turn away these events based on the reasonable carefulness on an individual basis. The resulting default of the time of delivery prolongs the agreed time of delivery adequately.

2.4. The beginning and the execution of agreed delivery times postulates the fulfillment of the obligations of involvement particularly the duly entry of the clearance from the buyer and the adherence of the agreed payment conditions by the buyer. In case that these conditions are not met early enough in an in due form, the delivery times may be extended adequately. This does not apply in case that the supplier has been responsible for the delay himself.

2.5. In case that we are responsible of the delay the buyer must declare, according to our demand and within a fair term, if he wants to resign from the contract and/or if he claims compensation in place of the good and services or insists upon the delivery.

2.6. For damage claims of the buyers due to delay of the delivery **section 9** is effective.

3. Package

3.1. The deliveries are carried out including package in case that those are not disposed emphatically on a loan basis.

3.2. Packaging disposed emphatically on a loan basis should be returned as soon as possible and free of carriage charge by the buyers.

3.3. For small packages additional charges are charged.

3.4. If exported articles, marked with our labels, are processed, the use of our label in connection with the production of the commodity is only permitted when our written agreement is on hand.

4. Passing of risk

4.1. The delivery take place by cargo FCA (free carrier – Incoterms 2010) if there does not exist another term.

5. Assessment of costs

The counting takes place based on the current price effective on the day of delivery plus purchase tax. A calculation of the purchase tax remains undon only in the case that a tax exemption for export supplies is given.

6. Payment terms

6.1. If no other term is stipulated formely in writing, the payment has to take place within 30 calendar days counting from the date of the invoice without any discount.

6.2. Wir are authorized to settle payments with the oldest payable debt claim. In all other respects § 366 Abs. 2 BGB applies.

6.3. With a violation of the payment deadline, we are authorized to charge interests for delay of 9 % above the prime lending rate. The enforcement of a further claim is not excluded.

6.4. Payment by means of a bill of exchange is permitted only after former agreement with us. Bills of exchange and cheques are accepted by us only on account of performance and they will be excluded by means of extending a term of payment or the acceptance of bill of exchange or cheques.

6.5. The buyer is only allowed to balance with indisputable, recognized by us or legal cross claims. If the cross claim is based on the same contractual relationship, the buyer has the right of retention.

7. Complaints and notice of defects

7.1. The buyer is not allowed to reject the acceptance of the delivery by reason of insignificant deficiencies.

7.2. Obvious faults have to be rebuked so immediately by the buyer at least 7 days after receipt in written form. Other material defects have to be rebuked so by the buyer immediately after discovery in written form, too. The receipt of the reproval in our office at time is always decisive.

7.3. In case of no accurately timed reproof of the material defects pretensions of such reproofs are excluded.

8. Warranty against defects

8.1. Entitlement against material defects prescribe within 12 months unless the law regulates a longer statute of limitations by warranty against defects according to section 9, referred to § 479 section 1 in case of recall respectively § 438 section 1 Nr. 2 for buildings and structures respectively for matters of structures according to § 634a of the civil code for deficiencies in the construction. With the supplementary performance the period of limitation does not start again.

8.2. The period of limitation against defects begins with the delivery of the object (passing of risk like Nr. 4).

8.3. With the existence of a quality defect within the period of limitation, the reason of which has been on hand already at the date of passing of risk, we can – as supplementary performance according to our choice – remedy deficiencies or deliver an object free of defect.

8.4. If the supplementary performance fails two times the buyer is allowed – without prejudice of claims for damages – to cancel the purchase or reduce the payment.

8.5. The demand of the buyer caused by the costly charges for the purpose of the supplementary performance, particularly for casts for transport, travel, labor and for materials, are excluded particularly insofar as the charges escalate because the material of the delivery has been shipped supplementary to another location than the intended of the buyer unless the transport corresponds to the intended destination.

8.6. Right of compensation does not exist in case of insignificant divergences with the agreed property or with insignificant detriment of the utility only.

8.7. Material defects are not:

- Properties of commodities or defects which are caused after the transfer of risk due to inadequate treatment, storage and nonobservance of operation instructions;
- Properties of the merchandise or damages which are caused by force majeure, especially per outer effects and which are not assumed according to the contract, or by reason of the handling of the goods outside of the contractual usage or customary application;
- Excess of durability data. Claims for defect as to quality do not exist if the commodity is altered by stranger side unless the defect does not relate to a causal coherence with the diversification.

8.8. Claim for rescission of the buyer against us exist in so far only that the buyer has not agreed with his customer upon arrangements which are passing the legal claims for defects, for instance ex gratia payments or comparisons.

8.9. Our obligations for achievement of damage compensation and replacement of vain expenditures as defined by § 284 BGB company (partnership organized under civil code) due to material defects act in accordance with the following section 9. Advanced and other than in that section 9 regulated claims of the buyer due to material defects are excluded.

8.10. For lack of title which are not based on injury of property rights of a third party, the stipulations of the section 8 serve accordingly.

9. General liability limitations

Insofar as in these delivery conditions something else is stipulated we are liable for compensation for loss suffered and refund of the vain charges as defined by the beforementioned § 284 BGB (successive "damage compensation") due to injury of contractual or other than contractual obligations under intent or rude carelessness only by one of our agent or executive employees, by fatal injury, risk of the body or the health, due to the take over of a guarantee or a risk of acquisition, for the infraction of essential contractual obligations because of compulsory responsibility according to the product liability act or other compelling responsibilities. The damage compensation regarding the injury of essential contractual obligations is, however, limited to the typical for the contract for a foreseeable damage insofar as no intention or rude carelessness exist or due to infringement of health, risk of the body or life or there will be a take over of guarantee or an exercise risk. An alteration of the burden of proof at the disadvantage of the buyer is not connected with the present regulation.

10. Reservation of proprietary rights

10.1. We reserve for the delivered goods the properties as long and as far as we still have pecuniary claims from the business relation with the buyer.

10.2. The buyer, however, is entitled to process and/or to liquidate the good within the limits of his correct managed business establishment.

10.3. With the converting of our goods on our behalf the buyer cannot acquire the title as owner of the new becoming goods. With the converting, composition or blending with material which is not belonging to us we win always a co-ownership according to the contingent which relates to the value of our delivered good, subject to retention of title (invoice value + 20 %) at the value related to the handling, composition or blending of the produced products. The buyer is considered in such cases as safekeeper on our behalf.

10.4. In case that our retained goods will be sold in the correct business concern of the buyer without immediate payment, the pretension of the equivalent amounting to the value of the property respectively co-ownership share goes over to us without delay independently if the retained goods have been converted, handled and blended or not required. The buyer is entitled and obligated for cancelled this authorization. The buyer has to inform us immediately in written form, according to our demand, to whom he has sold the goods and which claim results from the sale.

10.5. If a third party argues or asserts that he has an authorized for the retained goods the seller is obliged to inform us hereof immediately.

10.6. The buyer is obliged to convey us, as soon as he has suspended the payment – and in fact without delay after publication of the stoppage of payment – a list of the remaining goods subjecting to reservation of ownership, even when they are already processed and furthermore a chart of the demands for garneshe.

10.7. The request for the petition of an insolvency proceedings qualifies us to resign from the contract and to insist on an immediate restitution of the batch.

10.8. The buyer is obliged to inform us before he regulates his own debit claims by means of a factoring contract.

10.9. Does the value of security exceed the requirements to be protected more than 20 % we shall clear the 100 percent of expenses of the delivery according to our option.

10.10. Does the buyer act contrary to his obligations, in accordance with Nr. 10.1 to 10.9, we are authorized to call for the delivery of the goods without resigning from the contract of purchase. The right to ownership of the goods delivered under reservation of proprietary is no more at buyer's due.

11. Place of fulfillment, place of jurisdiction, final provisions

11.1. In case of a total inefficacy or in part of the conditions or nullity, all the rest of appointments remain active. The contract parties will agree by written upon another effective arrangement in stead of the ineffective or void one which approximates economically as close as possible.

11.2. The place of fulfillment for the delivery is our part-work. Exclusive place of jurisdiction for all conflicts resulting from the business relation including such ones from records, bill of exchange and cheques is for traders the County Court of Essen and for claims of the seller also the General Court of Jurisdiction of the buyer.

11.3. For all privities between ourselves and the buyer german legislation is solely effective to the exclusion of the conflict of laws and the accommodation of the United Nations Convention on contracts for the national sales of goods (CISG).