

General Terms of Sale and Delivery

1. General

All agreements, deliveries and other services including consulting services are exclusively subject to the present Terms of Sale unless agreed otherwise in writing in a particular case. These Terms also apply to all future transactions, also when not explicitly agreed once again. Business terms of the Buyer in contradiction to the present Terms are not binding on the Seller, also when they are the basis of an order and when their contents was not explicitly rejected by the Buyer.

The invalidity of individual provisions shall not affect the validity of the remaining provisions of these Terms.

2. Orders

The Seller accepts orders by written confirmation or by execution. Verbal subsidiary agreements or undertakings of any kind require a written confirmation of the Seller to be binding.

The Buyer, who may set a reasonable period for the acceptance of his order, shall be bound to his orders up to the expiry of the period even when issued orally.

3. Offers

All offers are non-binding. Intermediate sales remain reserved except when explicit firm delivery undertakings are given.

Drawings, images, sizes, weights or other contract-relevant data are only approximate. They are binding only when explicitly confirmed in writing.

4. Prices

The delivery is made at the price in force on the day of delivery plus applicable statutory VAT unless the purchase price in the order is explicitly marked "fixed".

The Seller reserves the right to pass on any foreign exchange rate fluctuations and price changes by suppliers to the Buyer.

The prices are exclusive of packing from place of shipment. Freight, shipping costs, customs duties are for account of the Buyer and must be advanced in cash on demand.

5. Delivery

The shipment of the goods is at the risk of the Buyer. The risk passes to the Buyer latest on delivery of the goods to the forwarding agent, carrier or shipping company. In the event of delivery ex warehouse, also on vehicles of the Seller, the risk of loss or deterioration of the goods passes to the Buyer on completion of the loading on the transport vehicle, also in the case of free deliveries or freight reimbursements. These affect only the price design.

6. Partial Deliveries

Partial deliveries are permitted unless the Buyer can demonstrate conclusively that a partial delivery is of no economic interest to him. Partial deliveries are calculated individually and payable separately. Advance payments will be pro-rated on the individual deliveries constituting the transaction as a whole.

7. Delivery Times and Acceptance by Buyer

Delivery dates are binding only if confirmed by the Seller in writing. The delivery period begins on receipt of a possibly agreed down payment. The delivery date is considered met if the shipment is ready for dispatch by the delivery date and this fact has been notified to the Buyer. The adherence to the delivery period presupposes the prior fulfillment of the contractual obligations by the Buyer, also with regard to other contracts.

The delivery takes place at the agreed handover point. In case of any subsequent changes, the Buyer shall bear all resulting costs.

All circumstances beyond the control of the Seller, including subsequent sourcing difficulties with raw materials, supplies and fuels, breakdowns, labour disputes, manpower shortages, lack of transport or loading options, orders of authority, etc. are considered force majeure even when they occur at the suppliers of the Seller or at subcontractors of the former, and entitle the Seller to postpone contract performance for the duration of the obstacle plus a reasonable lead time or to withdraw from the contract on account of the non-performed contract portion. Claims for damages against the Seller are excluded in this case.

If the Seller is in default, the Buyer shall be entitled to compensation for delay of 0.25% of the invoice value, but no more than 5% of the invoice value of the goods and services affected by the delay for each complete week thereof. Any further claims, of whatever nature and for whichever legal reason, are excluded.

If the Buyer delays acceptance, the agreed terms of payment shall lapse and the entire purchase price shall be due for immediate payment.

8. Warranty

The Buyer must check the goods for proper functioning and contractual adequacy promptly on their receipt. Recognizable defects will be acknowledged only if a written claim was received by the Seller within 10 days from receipt.

Defects that cannot be detected within this period even after careful examination must be reported in writing to the Seller immediately after their discovery. In order to remedy the defect, the Buyer shall grant the Seller the necessary time and opportunity at his reasonable discretion, in particular to present the product in dispute or samples thereof. If he refuses to do so, the Seller's warranty is void without substitute. All submissions and returns must be accompanied by the delivery note of the Seller. If, in the event of a claim, goods are returned without justification, the Seller is entitled to charge the shipping costs and a reasonable remuneration for the inspection of the goods and make the return of the goods dependent on prior payment.

Failure to follow the Seller's operating or maintenance instructions, changes to the products and replacement of parts with non-original parts void the warranty of the Seller. The warranty does likewise not extend to parts subject to wear and tear. If, contrary to expectation, a remedy of the deliveries and services of the Seller as per the above warranty terms is not possible, the claims of the Buyer for a price reduction or replacement in the event of total non-usability re-apply. Further claims of the Buyer for damages are expressly excluded.

9. Warranty for Used Goods

Unless otherwise expressly agreed in writing, used goods are sold in the condition in which they are found on delivery. No warranty is issued in their regard.

10. Liability of Seller

Claims for damages by the Buyer due to flawed contract design [*culpa in contrahendo*], breach of ancillary contract obligations, unlawful acts or for any other reasons shall be excluded unless the Seller or his vicarious agents are guilty of premeditation or gross negligence. The above claims expire half a year after receipt of the goods by the Buyer.

The liability of the Seller is limited to half of the respective invoice value, up to a maximum of DM 50,000.

11. Repairs

A cost estimate possibly required prior to the execution of a repair must be explicitly requested in writing. The costs for the estimate shall be remunerated. Exceeding the cost estimate by 20%, in case of unforeseen circumstances up to 35%, shall be routinely allowed. Repairs are made without any guarantee except when an itemized defect report is presented. Whether repairs are carried out in the Seller's own or a third-party work shop, is up to the discretion of the Seller. Costs for shipping and packaging are for account of the Buyer. Secs. 4 and 5 of the Terms of Sale apply *mutatis mutandis* in this regard. Repaired goods are delivered only on immediate payment.

For current maintenance contracts, the conditions laid down therein shall apply in addition thereto.

12. Terms of Payment

Unless expressly agreed otherwise in writing, all payments are to be made in cash prior to delivery. All other invoices are due immediately on receipt of the invoice without deduction.

Agreed cash discounts are applied only on the effective net price of the goods after deduction of discount, freight and packaging costs.

If no payment is received by the Seller within 14 days from the date of invoice, the Buyer shall be in default from this point onward without this requiring a separate notice by the Seller. The Seller is entitled to charge default interest in the usual bank rate but at no less than 3% above the respective *Bundesbank* discount rate. The acceptance of bills of exchange or cheques as well as assignments of claims, which the Seller reserves, is only made on account of performance. Bills of exchange shall only be credited against the amount remaining after deduction of the bank-based discounts and collection charges as of the maturity date of the invoice. If the Buyer defaults on his payment obligations or if the creditworthiness of the Buyer or of a subsequent drawer is reduced, the Seller is entitled to demand immediate payment of all receivables, return bills of exchange already accepted, demand a security deposit for bills of exchange still in circulation, revoke the disposal and processing rights of the Buyer, and to retrieve delivered goods for security purposes without the Buyer being entitled to a right of retention. Proof of such circumstances shall be deemed provided by the information of a reputable credit agency or bank. The confirmation on behalf of the Seller by an attorney-at-law or notary of the existence of such information shall suffice; the submission of the information cannot be required from the Buyer himself. If the Seller has not yet made delivery, he may, at his discretion, make delivery conditional on a down payment or advance on the entire sales price, or withdraw from the contract or demand compensation on account of non-performance after a reasonable grace period.

A suspension of payment, the filing of an application for composition or insolvency proceedings on the assets of the Buyer likewise render all invoices of the Seller due for immediate payment.

13. Sales Restrictions

For products subject to sales restrictions, apart from the present Terms of Sale, the specific conditions of the manufacturer in question shall apply in addition thereto. The Buyer must familiarize himself with the contents of these conditions. He may not claim ignorance of these conditions.

14. Embargo Clause

If there is a corresponding note on the title page, the following embargo provision applies: "The re-export of the delivered goods from the Federal Republic of Germany without the approval of the Federal Agency for Economics and Export Control and of US authorities is in breach of German and US law".

15. Offsetting and Retention

Offsetting is only permitted with counterclaims recognized by the Seller or which are legally final. This applies analogously to the assertion of rights of retention.

16. Reservation of Title

Deliveries are made only subject to extended title and current account provisos. Until the full payment of the purchase price and all other claims against the Buyer, including claims that the Seller may acquire from the future transactions, the delivered goods remain the property of the Seller irrespective of where the goods are stored.

If delivered goods are processed by the Buyer into new goods, the processing shall take place on behalf of the Seller. The acquisition of ownership as per Sec. 950 BGB is excluded. However, possibly resulting liabilities shall apply only to the Buyer or processor. In the case of processing with other goods not belonging to the Seller, the Seller acquires co-ownership of the new product according to the ratio at the time of processing of the value of the goods supplied by him and the other goods. The value of the goods delivered by the Seller is determined by the respective final amount of the invoice of the Seller underlying the respective delivery. The new product created by the processing of the Buyer is regarded as reserved goods in the sense of these Terms of Sale.

The Buyer assigns his claim from a resale of the reserved goods to the Seller already at this time. If the resale is made at an aggregated price together with other goods not belonging to the Seller, the Buyer hereby assigns to the Seller his claim from the resale in an amount that corresponds to the full invoice value of the reserved goods.

If reserved goods which are co-owned by the Seller are resold, the Buyer shall assign to the Seller his claims from the resale in the amount that corresponds to the co-owned share of the Seller. The purchaser is entitled and authorized to resell the reserved goods only with the proviso that the receivable purchase price is assigned to the Seller.

The Buyer is not authorized to any other dispositions involving the reserved goods (including their use as collateral) or other arrangements concerning the claim which the Buyer has assigned or is required to assign to the Seller under the aforementioned terms.

The Seller authorizes the Buyer, subject to revocation, to collect the claim from the resale. The Seller will not make use of his powers of collection as long as the Buyer meets his payment obligations. On request, the Buyer must designate to the Seller the debtors of the assigned claim and notify them of the assignment. The Seller is hereby authorized to notify the debtors of the assignment on behalf of the Buyer. In the event of an attachment or other risks to the rights of the Seller, the Buyer must point out the rights of the Seller to the party taking or attempting to take the measures affecting the goods. Irrespective thereof, he must notify the Seller of any such risks promptly by telephone or telex.

If the value of the collateral granted to the Seller exceeds the latter's claims by more than 20%, the Seller must at his choice retransfer or release the full payment of all claims of the Seller from the transaction by which ownership of the reserved goods passes to the Buyer. At the same time, the Buyer then acquires the claim which he has assigned to the Seller to secure the claims of the latter in accordance with the aforementioned terms.

17. Assignment

The assignment of claims by the Buyer against the Seller, for whatever legal reason, under existing contracts with the Buyer is not permitted unless the Seller has previously granted his consent in writing. Internal assignments between the Seller and the Buyers remain unaffected by this clause.

18. Place of Performance and Jurisdiction

The place of performance is, as far as legally permitted, Wiesbaden.

The exclusive place of jurisdiction for all disputes arising from their contractual relationship is Wiesbaden provided that the contract parties are registered merchants, corporations, institutions, public law special funds and foundations under private or public law.

These terms also govern any private delivery transactions.

If the contracting parties do not belong to the aforementioned category, the above place of jurisdiction is deemed to have been agreed for foreign buyers, taking into account the EU Court jurisdiction and the Convention on Civil and Commercial Matters of 29.09.1968, which came into force on 01.02.1973 in relation to the respective contracting states.

The contractual relationship with foreign buyers is governed exclusively by the applicable national law of the Federal Republic of Germany.