

General Standard Terms and Conditions

§ 1 Validity of the Standard Terms and Conditions

Our deliveries, services and offers shall be provided exclusively on the basis of these General Terms and Conditions. Thus they also apply to any and all future business relationships, even if they have not been expressly agreed in each case. These Terms and Conditions shall at the latest be considered to be accepted upon taking delivery of the service or goods. Counter-confirmations on the part of the customer with reference to his own terms and conditions of business and purchasing shall be hereby contradicted.

Deviations from these Terms and Conditions shall only be effective if we confirm them in writing.

§ 2 Offer and Conclusion of a Contract

Our offers are made subject to confirmation and without obligation. Drawings, illustrations, dimensions, weights or other performance data shall be binding only if expressly agreed upon in writing. The same shall apply to amendments, alterations or ancillary agreements. We will be bound to an order for a period of 4 weeks. Orders require our written confirmation in order to be legally binding. If we do not reject acceptance within 4 weeks after placement of the order, then confirmation shall be considered as having been given.

Our sales employees are not authorized to reach ancillary agreements or provide verbal warranties that go beyond the contents of the written agreement.

§ 3 Prices, Change in Prices

Prices are calculated in accordance with our prices and conditions valid on the day of conclusion of a contract plus the legally valid value added tax.

Our valid prices shall apply at the time of delivery or supply insofar as a period of more than six months lies between the conclusion of a contract and the agreed and/or actual delivery date. If the last indicated prices exceed the ones that were initially agreed upon by more than 10%, then the customer shall be authorized to withdraw from the contract.

Unless agreed upon otherwise, prices shall be valid, excluding normal packing and freight, up to the place of destination. Additional deliveries of goods and services shall be separately invoiced.

§ 4 Period of Delivery and Time of Performance

Delivery dates and periods, which may form the subject of binding or non-binding agreement, shall require our written confirmation.

We shall not be liable for delivery and performance delays even in the case of agreed delivery dates and periods that are due to force majeure and/or events which either substantially impede performance or make performance impossible, even if they occur at the premises of our suppliers or their subcontractors. In such cases the customer shall authorize us to postpone delivery and/or performance for the duration of the impediment in addition to an appropriate start-up period or to withdraw from the contract in part or as a whole due to the portion that has yet to be completed.

If the impediment lasts for more than three months, then the customer shall be authorized to withdraw from the contract with reference to the portion that has yet to be completed after allotting a reasonable period within which to make performance. If the period of delivery is extended or if we are released from our obligation, then the customer shall not be entitled to assert claims for damages as a result. We shall only be entitled to claim relief by reason of the circumstances indicated if we have immediately informed the customer.

To the extent that we may be held responsible for noncompliance with assured delivery dates and periods and are in default, then the customer shall be entitled to claim compensation for loss occasioned by the delay or default in the amount of 0.5% for each full week of delay; however, altogether up to 5% of the invoice amount of the supplies and services affected by the delay at the most. Assertion of any other claims shall be excluded unless the delay is based on gross negligence on our part at least.

We shall be authorized to make partial deliveries and provide partial services at any time.

§ 5 Passing of the Risk

The risk shall pass to the customer as soon as the shipment has been handed over to the person or facility responsible for carrying out the transport or once it has left our warehouse for the purpose of shipment.

§ 6 Warranty

The warranty period shall begin with the delivery date and amount to a total of six months. If changes are made to the goods or parts replaced, then any warranty claims shall become null and void if the customer is not capable of disproving a correspondingly substantiated statement indicating that the defect was only caused by one of these circumstances.

Furthermore, the warranty shall become void in the event that improper repairs or other changes are made by third parties.

If parts originate from third party manufacturers, then we assign our warranty claim against the manufacturer to our customers and are not responsible for any other warranties.

The customer shall be obliged to immediately notify us in writing about any obvious defects; however, within one week after delivery at the latest. The delivery item for which a notice of defect has been issued shall be kept available for our inspection in the condition in which it was found at the time that the defect was detected. Violation of the foregoing obligation shall void any warranty claims. Defects which are not capable of being detected within this period even with careful examination are to be communicated to us in writing immediately after their discovery. If the delivery item is then defective or if it lacks warranted qualities, or if it becomes defective within the warranty period as a result of manufacturing or material defects, then we shall have the option of providing the customer with a replacement or reworking the item in the case of notification within the prescribed period under the exclusion of other warranty claims.

Repeated rectification of defects shall be permissible.

If the customer requires warranty work to be carried out at a location which he determines, then we can honor this request; in this case there will be no charge for parts covered by the warranty, while hours worked and travel expenses shall be paid at our standard rates. If, after an appropriate period of time reworking fails, then the customer shall have the option of requesting a reduction of the remuneration and/or the purchase price or cancellation of the contract.

Liability for normal wear shall be excluded.

Only our direct customers are entitled to warranty claims. Warranty claims are not transferable.

The foregoing clauses contain the final warranties for our products and exclude other warranty claims of any kind whatsoever.

§ 7 Limitation of Liability

Claims against us and our vicarious agents for damages for positive violation of contractual duties, violation of mutual confidence in the preparation of a contract and unlawful acts shall be excluded insofar as intentional or gross negligence is not involved.

This shall also apply to claims for damages because of default; however, only insofar as replacement is required for indirect or consequential harm caused by the defect, unless liability is based on a warranty which is intended to protect the customer against the risk of such damage.

§ 8 Reservation of Ownership

We reserve ownership of the goods delivered (conditional commodity) until all claims to which we are entitled against the customer now or in the future for any legal grounds whatsoever have been satisfied (including all current account reservations). Processing or transformation shall only take place for us as manufacturers; however, without obligation for us. In the event that our (co-)ownership is lost through combination or processing, then it shall already be agreed that (co-)ownership of the uniform item on the part of the customer shall pass to us in proportion to the value (invoice amount). The customer shall safeguard our (co-)ownership free of charge.

The customer shall be obliged in the event of attachment of the conditional commodity by third parties – in particular bailiffs or creditors – to make reference to our ownership and to inform us immediately.

The customer shall be entitled to process and sell the conditional commodity in the normal course of business as long as the customer is not in default. Pledges or transfers by way of security are not permissible. The customer shall hereby already assign any claims in full as a result of resale or for any other legal grounds (insurance, tortious acts) with regard to the conditional commodity (including any current account reservations) for the sake of security. We hereby grant the customer revocable authorization to collect claim assigned us for our own account and in his own name. The direct debit authorization can be only revoked if the customer does not duly fulfill his payment obligations.

In the event of infringement of the terms of the agreement by the customer – in particular, in the event of delay of payment – we shall be authorized to take back the conditional commodity or, if applicable, to demand assignment of the customer's claim against third parties for return of property; revocation or seizure of the conditional commodity by us does not represent cancellation of the contract.

In the case of commission orders we reserve a right of retention up to final payment of our demands in the case of a delay of payment by the client for goods handed over to us for processing.

§ 9 Payments

Unless it has been agreed otherwise, our invoices are payable without deductions 14 days after billing.

In spite of any other provisions stipulated by the customer, we shall be entitled to credit payments to older debts first as well as carry out any remaining payment accounting in an order in accordance with Section 366 of the German Civil Code [BGB] while informing the customer about the manner of billing.

A payment shall only be considered to have been made when the payment amount is at our disposal.

If we become aware of circumstances which put the creditworthiness of the customer into question, in particular if the customer stops payments or a check is not redeemed, then we shall be entitled to make the entire balance of debt due. In this case, we are also entitled to require pre-payments or some form of security.

The customer shall only be entitled to set-off, retention or reduction, even if notification of defects or counterclaims are asserted, insofar as the counterclaim involved is undisputed or represents a legally enforceable claim. However, the customer shall also be entitled to a right of retention because of counterclaims from the same contractual relationship.

§ 10 Applicable Law, Place of Jurisdiction, Severability

These General Terms and Conditions and the entire legal relationship of the contracting parties shall be governed by the law obtaining in the Federal Republic of Germany.

Erlangen shall be the agreed exclusive place of performance and jurisdiction for any disputes that may arise out of or are related to this agreement.

Should one or more of the provisions in these General Terms and Conditions or a provision within the scope of other agreements be invalid as a whole or in part or prove to be incapable of being implemented, then the validity of the remaining provisions or agreements shall not be affected.