

General Terms and Conditions of Sale, Delivery and Payment

1. Order

1.1. We sell and deliver only and exclusively on the basis of the following Terms and Conditions of Delivery and Payment. Even with signed supplier contracts, no other terms and conditions will be accepted.

2. Offers and conclusion of contract

2.1. All quotations or offers made by Seller shall be non-binding. All contracts require the Seller's written acceptance. The requirement for the written form can only be waived in writing.

2.2. Our offers, deliveries and services shall be exclusively on these General Terms and Conditions (GTC). They shall serve as a framework agreement for all future contracts for the goods offered by the Seller, even if they are not expressly agreed upon again.

2.3. Any deviating, contradictory or supplementary General Terms and Conditions of Business and Purchasing of the Customer shall only become part of this contract, if we have expressly consented thereto. This requirement of consent shall apply in every eventuality, for example also if we agree without reservation to make a delivery in full knowledge of the Purchaser's GTC.

2.4. Any individual agreements made with the Customer in an individual case (including subsidiary agreements, additions and amendments) shall have priority over these Terms and Conditions. The content of such agreements must be set forth in a written contract or in written confirmation by us.

2.5. Commercial quality, quantity, weight or other deviations, must be accepted by the Customer, even if he refers to brochures, drawings or illustrations when ordering or even in case of a purchase after having obtained a sample or specimen, unless expressly designated as binding.

3. Quotations, drawings and technical documents

3.1. Quotations, drawings, technical documents and the like remain the property of the Seller, even if they have been handed out before the placement of an order and they are proposals for a solution. The documents or parts thereof may not be copied in any way or brought to the attention of third parties without the express permission of the Seller. Use is permitted internally only within the contractual limits. Copyrights shall remain with the Seller.

3.2. There must be no industrial property rights of third parties opposing the Customer's use of the documents such as drawings, templates, samples or the like. In the event of recourse by third parties due to a violation of property rights the Customer shall indemnify the Seller from third party claims. The Seller does not need to verify the existence of property rights of third parties.

3.3. The Customer shall bear the shipping costs for samples. The samples remain the property of the Seller. The cost of metal surcharges calculated by the manufacturer shall be borne by the Customer.

3.4. Delivery time / reservation of timely and correct supply of incoming goods / partial shipments / default on the part of the Seller

3.5. Delivery deadlines and dates are given in good faith and as accurately as possible in the order confirmation. The delivery deadline begins with the receipt of the order confirmation by the Customer, but not before the Customer has submitted the requisite documents, permits, releases and receipt of any agreed down payments.

3.6. Provided that the acceptance of the contract offer by the Customer does not already take place at the delivery of the goods, the delivery deadline is specified in the order confirmation. If the delivery deadline is not specified in the order confirmation, it will be a maximum of four weeks after conclusion of contract.

3.7. In case we are not able to keep a determined delivery date, the Customer shall grant us an appropriate extended deadline of a minimum of four weeks.

3.8. Even if binding delivery deadlines or dates have been agreed, we shall not be liable for obstructions of delivery and service due to force majeure or other unforeseeable events at the time of conclusion of contract, which make the delivery significantly more difficult or impossible (this also includes subsequent material procurement difficulties, interruptions of operations, strikes, lockouts, shortage of staff, lack of transportation means, regulatory actions, etc., even if they occur at our suppliers or their subcontractors) for which we are not responsible. In case the obstruction is not only of a temporary nature, we shall be entitled to rescind the contract. If there are obstructions of a temporary nature, delivery or performance deadlines may be extended or the delivery or performance dates postponed by the period of the delay plus a reasonable start-up period. If the obstruction lasts longer than three months or further wait cannot reasonably be expected from the Customer, the Customer shall be entitled, after setting an appropriate extended deadline, shall be entitled to rescind the contract for the part that has not yet been fulfilled.

3.9. We are entitled to partial delivery, when the partial delivery as part of the framework of the contract can be used by the Customer for its intended purpose, the delivery of the remaining goods is assured and no additional work and expenses are incurred (unless we declare ourselves willing to absorb the costs).

3.10. In the event that the promised service is not available either because our subcontractors have not supplied correctly or in a timely manner or because stocks of the product concerned have been exhausted, we shall be entitled to supply items which are equivalent in quality and price. If the provision of a service which is equivalent in price and quality is not possible, both parties shall have the right to rescind from the contract and do need not supply the promised service. We agree to inform the Customer about the unavailability without delay and to immediately reimburse to the Customer any payment he has already made.

3.11. Strikes, lockouts (also with suppliers, pre-suppliers of the Seller) and other cases of force majeure beyond the control of the Seller, of which the Customer must be informed, shall release the Seller for the duration of their existence from the fulfillment of the contractual obligation to deliver. This shall also apply to unforeseen and unavoidable interruptions of operations on the part of the Seller. If timely performance becomes impossible for the Seller to perform due to these events, the Seller shall be entitled to rescind the contract.

3.12. If, despite conclusion of a congruent hedging transaction, the Seller does not or not punctually receive the goods ordered by the Customer from the suppliers, without the Seller being responsible, the Seller may rescind the contract entered into with the Customer. If such incorrect or delayed self-supply only affects individual objects of a common order of the Customer, the Seller shall also be entitled to rescind the contract unless the Customer declares in writing an interest in the partial performance of the contract. In the latter case, the Seller shall be released from his service obligation for the items affected by incorrect or delayed self-supply without the need for a separate declaration by the Seller. The Customer shall be notified about the incorrect or delayed self-supply. If the Seller does not rescind the contract, he shall be released from his service obligation for the duration of the incorrect or delayed self-supply.

3.13. In the event of default of the Seller, the Customer may rescind the contract after expiry of the appropriate extended deadline of at least 4 weeks, which must be accompanied by the notification that the Customer will refuse performance after the deadline, if the goods are not reported as ready for shipment by the deadline. The deadline shall commence on receipt of the written extended deadline by the Seller from the Customer.

3.14. Partial deliveries are allowed. We reserve the right to deliver the goods before the agreed delivery date.

4.Prices

- 4.1. The prices listed are for delivery ex works of the Seller and are net prices.
- 4.2. Discounts will not be applied where the Customer is in arrears with his payments in respect of earlier deliveries.
- 4.3. Prices are valid for 48 hours and must be confirmed separately in case of prolonged quotation processing.
- 4.4. Packing material is not charged separately.
- 4.5. If the purchase price is given in a foreign currency, the Customer shall bear the risk of a worsened exchange rate ratio in relation to the euro for the period from the conclusion of the contract until receipt of the amount by the Seller.
- 4.6. If the Customer defaults on payment in a foreign currency, the Seller is entitled to demand payment in euros instead of payment in foreign currency. The Seller shall have the right to choose between the exchange rate on the due date and the exchange rate on the date of payment.

5. Payments, offsetting and right to withhold performance

- 5.1. Payments are due immediately and payable without any deduction, unless otherwise stated in the order confirmation or on the invoice. When specifying a term of payment, the invoice amount must be at the Seller's disposal at the end of the term of payment. COD shipments are payable without any deductions.
- 5.2. Bills of exchange or checks shall only be accepted on account of performance, but not in lieu of performance. With the issuance of the bill of exchange or the check, the ownership of the bill of exchange or check passes to the Seller. The Customer shall bear the costs of discounting and collection.
- 5.3. If the Customer is in arrears, interest at the rate of 12% will be charged per annum until paid. By agreeing on a longer term of payment than that given in 6.1, the maturity of the debt according to 6.1 is not affected. The Seller merely postpones the enforcement of the claim. For the period between the due date and expiry of this term of payment, the Customer owes an interest of 5% per annum.
- 5.4. If the Customer remains in default despite reminders, he shall be obliged to pay all extrajudicial costs for enforcement of the claim, such as costs for scrutinizing a delivery address, credit checks and the costs for reminders and interventions of lawyers.
- 5.5. If the Customer's financial situation deteriorates significantly after the conclusion of the contract, e. g. bankruptcy or equalization proceedings are opened or if such deterioration of the financial situation becomes known only after the conclusion of the contract, the Seller does not have to execute the delivery until the Customer pays or provides reasonable security for the purchase price claim. The same shall apply if checks, which have been issued, are not honored when presented for payment or bills of exchange undergo a protest. Upon the Seller's demand for a matching payment with delivery, the Customer has to agree to this and to execute payment within two weeks or to provide the appropriate security, otherwise the Seller may rescind the contract.
- 5.6. The Customer may only offset unchallenged or legally recognized claims or with the written consent of the Seller. The Customer shall only have a right to withhold performance due to alleged defects in the goods and shall only be entitled to make use of the legal right of retention in relation to such claims or with the written consent of the Seller. The commercial right of retention in accordance with § 369 of the Code of Commercial Law shall be excluded.
- 5.7. Employees and external representatives of the Seller shall be entitled to accept payments only with collection authorization.
- 5.8. Credits are not settled in cash.

6. Transfer of risks

- 6.1. The Seller must fulfill his obligation at the site of his headquarters. If the Customer wants the delivery of the goods to another location, he bears the risk and the cost of shipment and transport of the goods, upon dispatch ex works.
- 6.2. The goods shall be insured as far as possible only at the express request of the Customer at his expense against the risks identified by him.
- 6.3. If shipping is delayed through no fault of the Seller, the goods will be stored at the expense and risk of the Customer. The notice that goods are ready for shipment shall be equivalent to the actual shipping of goods.
- 6.4. The Customer bears the sole risk from the occasion of installation of the goods, i.e. the Customer shall bear the warranty for himself and his customers as soon as the Customer installs the delivered goods by the Seller or otherwise puts them into use.
- 6.5. The risk shall pass to the Customer as soon as the consignment has been delivered into the custody of the person effecting transport or has left our works for the purpose of shipment.

7. Notice of defects and warranty / repair by the Seller

- 7.1. The Seller shall provide warranty for defects of the goods subject to the below provisions:
- 7.2. Defects on the delivered goods have to be reported immediately upon arrival of the shipment in writing, or in the case of hidden defects, no later than 30 days after receipt of the goods by the Customer. The Seller may rightfully repair defective goods twice or replace the defective product. Place of performance for repairs or replacement deliveries is the headquarters of the Seller. Therefore, the Customer shall bear the risk and the cost of shipping of the goods.
- 7.3. If the repair or replacement delivery fails for a second time, the Customer may demand a reasonable reduction of the purchase price. If the defect of the goods is not merely a minor defect, the Customer can also demand cancellation of the contract instead of a price reduction. These rules shall also apply if the Seller is not able to repair or provide a defect-free replacement delivery within 30 days of receipt of returned defective goods at the headquarters of the Seller.
- 7.4. The Seller is purely commercial agent and cannot give any warranty as to its function or the origin of the goods.
- 7.5. The warranty period shall be 30 days from handover of the goods to the Customer. The warranty period is extended due to rectifications or repairs and replacement deliveries for the duration of these works. After expiry of the warranty period, the Customer has no recourse claims against the Seller, if he provides a consumer warranty for defects in the goods or is made liable to recourse because one of the Customer's subsequent endorsers provided warranty to a consumer.
- 7.6. The delivery note (packing slip) must be returned with all consignments and returned consignments.
- 7.7. We shall only be liable for damages – irrespective of their legal grounds – occurring due to intent or gross negligence. In cases of minor negligence, we are only liable for damages resulting from death, physical injury or harm to human health and for damage resulting from the breach of a material contractual obligation; in this case, however, our liability shall be restricted to the compensation of the foreseeable, typically arising damage. A material contractual obligation is an obligation whereby its fulfillment is fundamental to enable a proper implementation of the contract in the first place and whereby the Customer trusts and may trust that it shall be adhered to.
- 7.8. The Customer acknowledges that as a commercial reseller the Seller is not regularly aware of the specific application for which the Customer buys the ordered goods and considering only the reasonable organizational, financial and professional expenses, he can only carry out the simplest random incoming goods inspections (ESD containers, original packaging, readability of the label, correct type of goods, inspection of samples). Unless otherwise agreed with regard to the nature, value and risk potential of contract goods, testing of the property as regards to Infringement of Third-Party Rights or defective products, the suitability of the contract goods for certain purposes, e-mail queries with label checks and similar quality tests are not among the contractual obligations of the Seller.
- 7.9. Unless otherwise agreed for individual goods, the warranty period is one year and commences on the date of delivery. The afore-mentioned limitation period shall apply as well for non-contractual damage claims of the Customer, which are based on defects of the goods, unless the application of the regular statutory limitation (§§ ???, 199 Civil Code) would lead to a shorter limitation period in individual cases. Liability for damage and compensation claims arising from malice, gross negligence, injury to life, body and health fall under the Product Liability Act, in case of fraudulent intent and guarantee, the statutory limitation periods shall apply at all times.

- 7.10. Due to the above-mentioned rights, the Customer does not have a right of retention with respect to claims that do not relate to the goods supplied. We are entitled to make the owed supplementary performance subject to the condition that the Customer pays the purchase price due. The Customer has, however, the right to retain a portion of the purchase price appropriate in relation to the defect.
- 7.11. The Seller is not liable for damages caused by slight negligence of him or his vicarious agent.
- 7.12. In no event will the Seller be liable for any consequential damages resulting from the sale of his goods.

8. Retention of title

- 8.1. The goods shall remain the property of the Seller until the purchase price has been paid in full. Retail customers may resell the reserved goods in the ordinary course of business.
- 8.2. Any claims arising out of the resale or any other legal ground with respect to the reserved goods shall be settled by the Customer with the Seller fully in the outstanding amount for security reasons.
- 8.3. If the Customer is not a retailer, he shall be entitled to sell the reserved goods only with the written consent of the Seller. Section 10.2 (Assignment of claims in advance) shall apply mutatis mutandis.
- 8.4. In case of default or other significant breaches of contract by the Customer, the Seller shall be entitled to take back the reserved goods while maintaining the contract and to return them again against matching payment of the purchase price. In this case, the Customer already now assigns all claims for return of property against third parties to the Seller. Also, if the Customer is in default of payment, the Seller is entitled to rescind the contract. The Customer irrevocably authorizes the Seller to enter the premises of the Customer in which the reserved goods are stored in order to allow the Seller to remove or to inspect the goods.
- 8.5. If the value of the Seller's securities effectively exceeds his claims and including the advance assignments by more than 20%, the Seller is obliged upon request of the Customer to release the granted securities according to the Seller's choice until the value of the remaining securities exceeds the Seller's claims by less than 20%. The Seller's selling price, less 10% if the goods are no longer new, shall apply as a reference for calculating the value of the security.
- 8.6. The Customer is not permitted to pledge the reserved goods or to transfer ownership of them as security without the written consent of the Seller.

9. Life support systems

Unless otherwise expressly agreed in writing, the delivery items are not suitable for use in life support devices or systems, human implants, nuclear plants or systems or other applications where a product failure can threaten life or cause catastrophic consequential damages. The Customer shall indemnify the Seller against any claims of third parties arising from a breach of this instruction.

10. Export

Certain goods are subject to national and various international export controls and embargo regulations. Their export is permitted only with the approval of the competent authorities. The Customer shall forward this instruction to his customers and thereby ensure the compliance with the regulations up to the end consumer as far as it is within his power. The Seller declares that a breach of these regulations makes the Customer liable for prosecution.

11. Applicable law

The laws of the Republic of Austria, court of jurisdiction Vienna, shall apply exclusively with the exception of the UN Sales Convention (UNCITRAL).
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