

General terms of sales and delivery

Our terms of sales and delivery shall apply exclusively. We shall not acknowledge any opposing conditions of the customer or such as deviate from our terms of sales and delivery. These shall only apply if we expressly acknowledge them in writing for the respective conclusion of the contract. Our terms of sales and delivery shall also apply if we deliver the goods to the customer without reservation despite the knowledge of opposing conditions of the customer or those which deviate from our terms of sales and delivery. All agreements reached between us and the customer for executing this contract have been recorded in writing in this contract. Our terms of sales and delivery shall only apply towards companies in the sense of § 310 I BGB [German Civil Code]. Our terms of sales and delivery shall also apply for all future business with the customer.

I. Offer and conclusion of the contract

1. Our offers are without obligation. All agreements shall only become effective when confirmed by us in writing. We reserve the right to make changes, insofar as these are reasonable for the buyer. If the order is to be deemed as an offer acc. § 145 BGB, we are entitled to accept this within two weeks.
2. We reserve the sole property and copyright to offers, cost estimates, figures, drawings and other documents. These shall only be determined for use by the buyer.

II. Prices, payments

1. Insofar as not otherwise seen from the order confirmation our prices shall apply ex works plus packaging, despatch, insurance and applicable value added tax.
2. Costs for changes to orders shall be borne by the buyer.
3. Orders, for which no fixed prices have expressly been agreed, will be invoiced at the list prices valid on the date of delivery if applicable plus the alloy surcharges. We shall be entitled to adapt the price in the event that decisive price factors (e.g. wage, material, energy costs, statutory provisions) change by the date of delivery.
4. In the case of subcontracting orders the value of the scrap, the chips and other waste are included in the remuneration.
5. Agreed prices are not binding for follow-up orders.
6. Payments shall be due and payable immediately. The deduction of cash discount requires a special written agreement. The customer shall only be entitled to rights of off-set if his counter claims have been determined as legally binding, are undisputed or acknowledged by us. In addition to this, he is only insofar authorized to exercise a right of retention if his counter claim is based on the same contractual relationship.
7. Bills of exchange and cheques will only be accepted in payment without guarantee for protest and only by arrangement under the condition that they can be discounted insofar as the buyer settles all expenses for these immediately in cash. Credits for this shall be carried out subject to the receipt minus all expenses with the value of the date upon which we may dispose of the counter value without reservation.
8. In the case of default we are entitled to charge interest at the amount of the respective bank rates for overdraft facilities, at least however in the amount of 8% above the respective base lending rate.
9. Our claims shall become due and payable immediately if terms of payment are not satisfied or should we become aware of any circumstances which are suitable for reducing the creditworthiness of the buyer. We shall in this case be entitled to execute outstanding deliveries and services only against advance payment or provision of security. If the advance payment is not made or security not provided within two weeks we shall be entitled, without setting a new deadline, to demand damages owing to non-performance or withdraw from the contracts.
10. The buyer hereby declares that he agrees that his claims may be off-set against liabilities towards us. In the event that claims or liabilities are due and payable on different dates, settlement will be carried out on the value date.

III. Terms of delivery

1. Terms of delivery shall begin on the date the order is confirmed, however not before all details of the order have been clarified. They shall be deemed as having been complied with if the goods have left our plant or notification has been given by us that the goods are ready for despatch by the end of the period of delivery. It shall be extended by a reasonable period of time taking into account our total planning if the buyer does not satisfy his obligations towards us or undertakes changes to the order.
2. Terms of delivery are subject to the correct and timely delivery by our suppliers. This shall only apply in the event that we are not responsible for the non-delivery, in particular upon conclusion of a congruent hedging transaction with our suppliers. The buyer shall be informed immediately about the non-availability of the service.
3. We shall be entitled to part deliveries if these are deemed reasonable for the buyer.

IV. Qualities and quantities

1. Composition of the material, quality and dimensions are determined according to the corresponding EN and DIN norms or material data sheets, insofar as foreign norms have not been agreed in writing.
2. All details on our products are approximate and only average values. They are not a guarantee of condition. We shall not be responsible for examining the suitability of the materials and their properties for an intended use of which we are notified.
3. Deviations in dimensions and quantities customary for the industry are permitted. Weight-related settlements may be carried out according to theoretical weight, as per approved norms and tables.
4. Excess quantities or shortfalls in quantities are permitted in case of special productions for each semi-finished product +/- 10%, in the case of pipes at least one production length.

V. Despatch and passing of risk

1. Insofar as not otherwise derived from the order confirmation delivery shall be agreed ex works.
2. When the material is handed over to a carrier or freight forwarder, no later than when it leaves our plant, the risk shall pass to the customer even in the case of free delivery to place of destination.
3. In the event that the goods are ready for despatch and should the despatch or the acceptance be delayed for reasons for which we are not responsible, then the risk shall pass to the buyer upon receipt of the notification that the goods are ready for despatch.
4. Faulty goods are to be accepted by the buyer irrespective of his rights.
5. Packages will be taken back in line with the respective valid packaging directive. Packages which are dirty and not sorted according to material, shall only be taken back against reimbursement of costs.

VI. Reservation of title and its special forms

1. All delivered goods shall remain our property (reserved goods) until satisfaction of all claims from the business relationship. This shall also apply if payments are made on specially designated claims. In the case of a current account the reserved property shall apply for securing our balance claim.
In the event of conduct on the part of the customer which is contrary to the contract, in particular in the case of default of payment, we shall be entitled to take the delivered goods back. When we take the goods back it shall be deemed as a cancellation of the contract. After we take the goods back we shall be entitled to sell these and to off-set the proceeds of the sale against the liabilities, minus reasonable costs for the sale.

2. Reserved goods shall be processed on our behalf as manufacturer in accordance with § 950 BGB without this placing us under any obligation. Processed goods shall be deemed as reserved goods. If reserved goods are combined and mixed with other goods we shall be entitled to co-ownership of the new object as a ratio of the invoice value of the reserved goods to the invoice value of the other goods. In the event that our property ceases to exist through combining or mixing, the customer hereby assigns to us immediately the property rights to which he is entitled for the new asset or object to the extent of the invoice value of the reserved goods. He shall store these free of charge on our behalf. The accrued co-ownership rights shall be deemed as reserved goods.
3. The customer undertakes to carefully store and sufficiently insure our reserved goods. He may only sell reserved goods in the ordinary course of business and by observing our terms of payment. These claims are hereby already assigned to us in the extent to which we are entitled. We accept this assignment. In the case of goods being sold, of which we hold co-ownership shares, the assignment shall apply in the amount of the co-ownership shares.
4. The customer undertakes to reserve towards his customers the property of the reserved goods in each resale at the same conditions on which we reserve the property upon delivery of the reserved goods. No other disposals of the reserved goods are permitted. We are to be informed immediately of any attachments or other access to the reserved goods. All costs for intervention shall be borne by the customer, insofar as they cannot be collected from the third party and the third party action has been filed justifiably.
5. The buyer is authorized, until revoked by us, to collect the claims assigned to us. We shall be entitled to revoke this authorization if he does not satisfy his obligations towards us or if we become aware of circumstances, which considerably reduce his creditworthiness. Upon request he undertakes to inform his buyers immediately of the assignment and to give us the information and documents necessary for collection.
6. In the event that the nominal value of the existing securities exceeds the secured claims by a total of more than 10% then we undertake if requested by the buyer to insofar release securities.
7. Insofar as the customer shall be entitled to claims against insurance companies or other third parties owing to damage, reduction, loss or destruction of reserved goods or for any other reasons, these shall also be assigned to us with immediate effect in the extent to which we are entitled. We accept this assignment.

VII. Notice of defects and warranty

1. Warranty claims of the customer presume that he inspects the delivered goods for completeness and accuracy after receipt at the place of destination, even if samples or specimens had been sent in advance. The goods shall be deemed as approved if a notice of defect has not been given in writing within seven days after receipt, or if the fault was not recognisable in a proper inspection, within seven days after it is discovered. Deviations of the delivered goods from the order confirmation which are customary for the industry shall in no way be deemed as defects. The buyer shall not be entitled to any claims for possible defects in the case of goods which have been sold as seconds.
2. The customer undertakes to immediately give us the opportunity to convince ourselves of the defect in particular upon request to immediately send or otherwise make available the rejected goods or samples thereof for inspection. The customer must give us the necessary time and opportunity to inspect the goods and if applicable satisfy our obligation under warranty.
3. In the case of justified complaint we undertake, at our discretion, to subsequently complete the contract through improvement or substitute delivery. In the event that the fault is corrected we shall only pay the expenses up to the amount of the purchase price and insofar as these are not increased due to the fact that the goods are taken to another location than the place of performance. Should we not satisfy our obligation for subsequent performance the customer may demand that the price be reduced or the contract cancelled with regard to the faulty part. He undertakes to first set us a reasonable final deadline of at least six weeks, informing us of the consequences, unless this is unnecessary in accordance with the legal provisions. In the event that the contract is cancelled the buyer shall be liable for deterioration, destruction and services not used, not just for his own customary due care and attention, but for each case when he is represented.
4. We shall only be liable for all other claims for damages or expenses, to which the customer is entitled due to or in connection with defects of the delivered goods, no matter for which legal reasons, according to the provisions in VIII. Warranty claims against us shall become statute-barred no later than one year after delivery of the goods at the customer's premises or the place of delivery named by him.
5. Warranty claims due to malicious non-disclosure of a defect or express assumption of a guarantee or condition are oriented exclusively to the statutory provisions.
6. If the end buyer of the goods is a consumer then the buyer shall be entitled to recourse according to the statutory provisions of §§ 478, 479 BGB under the prerequisites of § 377 HGB, however, he shall only be entitled to claims for damages and expenses according to the regulations in subclause VIII.

VIII. Exclusion and limitation of liability for compensation of damages and reimbursement of expenses

1. We shall only be liable for claims for damages and reimbursement of expenses for culpable acts, no matter on which legal grounds, among others breach of duty, illicit act, producer liability, except a possible liability according to the Product Liability Act, in the event of slight negligence with a breach of essential duties which poses a risk for the object of the contract and only for the typical foreseeable damages. Incidentally, our liability for slight negligence is excluded. In the event of liability owing to gross negligent behaviour we shall only be liable for the typical foreseeable damage. Furthermore, a liability independent of fault is excluded.
2. The exclusion and limitation of liability contained in par. 1 shall not apply if a liability exists for injury to life, body or health in case of assumption of a guarantee for condition or in the case of malicious non-disclosure of a fault.
3. All claims for damages and expenditure, no matter on what legal grounds, shall become statute-barred one year after passing of risk, in the event of the tortious liability from knowledge or grossly negligent lack of knowledge of the circumstances justifying the claim or of the person obliged to pay compensation. This shall not apply in the case of wilful intent, the cases stated in par. 2 and with an object, which has been used for a building according to its customary method of use and which caused its faultiness. If the end buyer is a consumer the legal regulations shall apply for the statute of limitations.
4. The regulations of section VIII shall also apply for the benefit of our employees.

IX. Special provisions

In the case of production according to a customer's drawing, samples or other instructions of the customer we shall assume no warranty and liability for the functionality of the product and for other faults, insofar as these circumstances are based on customer instructions. The customer shall release us from any claims of third parties, also from product liability, asserted against us due to the damages caused by the goods unless we caused the damages by wilful intent or gross negligence.

X. Place of jurisdiction and law to be applied

1. Place of performance for all obligations from the contractual relationship shall be Wittingen/Knesebeck. The place of jurisdiction, also for documents, bills of exchange and cheque proceedings, shall at our choice be our registered seat or the registered seat of the buyer.
2. The law of the Federal Republic of Germany shall apply for all legal disputes between us and the buyer and third parties, who shall be liable for satisfying the obligations of the buyer. The UN Convention on the International Sale of Goods (CISG) is excluded.

XI. Part invalidity and interpretation

1. In the event that parts of this condition are invalid as a result of statutory regulations it is agreed that invalid parts of the condition insofar affected shall be replaced by the admissible statutory regulation.
2. In case of differences of opinion regarding the interpretation of the English version, the German version takes precedence over the English version.