

**General Terms and Conditions of Sale and Delivery**

This English version of the general terms and conditions is not part of the deed and only a non binding convenience translation. The German text version prevails.

**1. General information**

All deliveries follow the delivery and payment conditions mentioned hereafter, which form the basis for all offers and agreements and shall be considered as acknowledged by placing orders or accepting deliveries for the entire duration of the business relation. Deviating terms and conditions, which have not been explicitly accepted in writing, are not binding for us as sellers, even if they have not been rejected formally. Verbal agreements outside this contract have not been concluded. Our offers are always without obligation, as far as nothing else is indicated in the order confirmation. The order confirmation will be part of the contract. The buyer is obliged to check the order confirmation for its correctness immediately upon receipt. Orders shall become binding for us by confirming them in writing. The scope of delivery will follow the order confirmation. Deviations in dimension, weight and linear meters are permitted within the limits of standard commercial tolerances. Normally, this can be assumed, if the tolerances do not exceed the confirmed quantity by more than 20 per cent. More details regarding commercial practice may also derive from the relevant product specification on the Internet, which have possibly become a constituent part of the contract. In any case, invoicing is based on the actually supplied quantity. For stock articles we reserve the right to increase or de-create the delivered quantity to the next full packaging unit. Modifications in design and shape, deviation in colour shade as well as changes to the scope of delivery remain reserved, as far as the change or alteration, considering the legitimate interests of both parties, can be reasonably expected by the buyer.

**2. Prices — Payment terms**

Provided that the order confirmation does not indicate anything else, prices are ex works excluding transport packaging; it will be charged separately. Prices do not include statutory VAT; it will be stated separately on the invoice at the applicable rate on the day of invoicing. Payment must be made in 30 days after invoice date without deduction. Deduction of discounts requires a separate agreement in writing. If the buyer is in default of payment, we are entitled to deem all claims as due. In case of exceeding the terms of payment, we are also authorized to demand the deposit of securities or pre-payment. Due claims are subject to 9 % interest above the base rate.

The right to assertion with regards to further damages remains reserved. The buyer is free to prove lower damages. Furthermore, in case of default of payment of the customer – regardless of the legal relationship – we are entitled to suspend deliveries until the date the payment is received. The agreed delivery terms and deadlines in the relevant contract will be extended by the corresponding number of calendar days. The buyer is only entitled to offset against our claims, if his counterclaim is uncontested, or, if he has a legally binding title; he can only assert a right of retention, as far as it is based on claims of the sales contract. A set-off of claims of a group company of the buyer is excluded anyhow.

For orders with an agreed delivery time of more than four months we reserve the right to raise prices according to incurred cost increases due to supplier and collective agreements, or a rise of material prices. If the increase is more than 5% of the agreed purchase price, the buyer is entitled to withdraw from the contract in accordance with article 313, paragraph 3 BGB (German Civil Code). In this case any claim for compensation of the buyer is explicitly excluded.

**3. Delivery**

Delivery dates and deadlines, which can be agreed upon as binding or non-binding, require the written form. Delivery periods commence with the conclusion of the contract. The agreed delivery period starts only after all technical questions have been settled. Another pre-requisite is that the buyer fulfils the obligations of the contract properly and in due time. If we are prevented from delivering the purchased object on the agreed date or within the agreed period (default in delivery), due to circumstances, for which we ourselves or a vicarious agent is responsible, we are liable in accordance with the statutory provisions. In case of default in delivery the buyer is obliged to set a deadline for delivery of at least six weeks. If we have not caused the default in delivery with intent, we can only be made liable for the foreseeable, typically occurring damage. Accordingly, the same applies, if the occurred damage is caused by the breach of a substantial contractual obligation. In addition, the buyer can claim lump-sum default damages amounting to 1% of the delivery value per full week of delay, up to a maximum of 10% of the delivery value. Force majeure and events, which temporarily prevent us from delivering the purchased goods at the agreed date or within the agreed period without any fault being attributed to us (e. g. strike, lockout, interruption of business operations, breakdown, atmospheric exposure or disturbance of traffic, delay in the supply with raw material or machinery, war or administrative orders) shall entitle us to postpone the delivery or service for the duration of the impediment, plus an appropriate run-up period. If disturbances result in a postponement of more than four months, the buyer may withdraw from the contract. Other rights of withdrawal shall remain unaffected. The buyer is obliged to accept the purchased item. If the buyer falls in default of acceptance, we are entitled to demand compensation for the caused damage.

For collection by the buyer or his appointed carrier agreed delivery dates must be duly kept. In case of default to pick up merchandise which has been notified to be ready for dispatch, we are entitled to dispose of the material next day. The buyer must bear all costs resulting from the default to pick up, or the provision of cargo dispositions. Especially, we are entitled to charge the buyer 0.5 % of the goods value for handling and warehousing costs each month, up to a maximum of 5 %. If the buyer does not meet the agreed periods and dates of delivery for partial orders, we are entitled to deliver the remaining goods, to withdraw from the part of the order still pending, or, to claim compensation for non-performance after a deadline has expired. We shall be entitled to make partial shipments; they shall be regarded as individual business transactions.

If the sales contract is a firm bargain (in terms of section 286 paragraph 2 no. 4 of the German Civil Code and section 376 of the German Commercial Code) we shall be liable according to statutory provisions. Accordingly, the buyer is entitled to abandon interest in the fulfilling of the contract resulting from the delay in delivery caused by us.

**4. Passing of risk — Packaging**

The risk of loss in dispatching the goods shall pass to the purchaser, when the goods have been handed over to the transport agent, or, once the goods have left the seller's warehouse for dispatch, provided that the buyer is acting as an entrepreneur. Transport insurance will be arranged only on buyer's request and expense when expressed in due time. We will not take transport or other packaging back apart from pallets, unless otherwise agreed. The buyer is liable himself for the disposal of the packaging material.

**5. Material defect warranty and warranty of title –Limitation period – Liability**

Claims of the buyer for eliminating defects shall be primarily limited to subsequent performance, i.e. rectification or replacement. We have the right to choose between rectification and replacement. With failures of repair or replacement the buyer may request

price reduction or withdraw from the contract. Repair is deemed unsuccessful, if and insofar a reasonable period of grace elapsed without a result. Conditions for exercising the right of withdrawal are laid down in section 323 of the German Civil Code. Rectification of defect or replacement shall be deemed unreasonable, if the costs exceed 25 % of the delivery value. For this case the buyer may make use of the statutory rights of withdrawal from the contract or demand reduction.

The warranty period for material defects for contracts with new goods shall be one year from delivery of the item. With regards to the sale of used goods liability for material defects is completely ruled out. In case of rectification of the defect, we are obligated to bear all expenses incurring for the purpose of rectification, in particular, all transport, travel, labour and material costs, as far as such expenses will not increase for the goods having been shipped to a location other than the place of fulfilment. We will be liable in accordance with statutory provisions insofar as the customer makes claims for damages that are based on intent or gross negligence, including intent or gross negligence by our representatives or vicarious agents. If we cannot be charged with intentional breach of contract, the liability will be limited to the foreseeable, typically occurring damage.

We shall be liable pursuant to the statutory provisions, insofar as we culpably violate an essential contractual obligation. An essential contractual obligation applies, if its violation puts the attainment of the contract purpose at risk, or, the fulfilment of which is essential for the proper implementation of the contract in general, and, the contract partner may as a rule rely on its compliance. For this case as well liability shall be limited to the foreseeable, typically occurring damage.

Liability for culpable injury to life, limb or health remains unaffected. This shall also apply to compulsory liability in accordance with the product liability law. Unless specified otherwise before, liability shall be excluded. In particular, this applies to claims for damages resulting from default at contract conclusion, or another breach of duty, or through claims in tort for damage to property according to section 823 German Civil Code. Exclusions and limitations of liability for damages mentioned before also apply to personal liability for compensation of our employees, staff members, representatives and vicarious agents.

**6. Recourse against an entrepreneur**

If the buyer re-sells the purchased object within the scope of his commercial business to another consumer, and, if he had to take back this object due to a defect, or, if he had to reduce the purchase price, then, the buyer can claim defect liability with us without a time limit.

Moreover, the buyer can also demand compensation for expenses incurred in his relation to the consumer, if the defect was claimed by the consumer, when the risk had already been transferred to the buyer, especially with regards to transport, travel, labour and material costs.

The buyer shall not be entitled to claim compensation within the framework of this recourse. The obligation of the buyer according to section 377 German Commercial Code remains unaffected from the rules described above.

**7. Retention of title**

The object of purchase shall remain the property of the seller until our account receivables in connection with the contract of sale have been settled. If the buyer is a merchant according to the German Commercial Code (HGB), we shall reserve the right of ownership to all delivered items until all payments arising from the business relationship have been received.

The buyer is entitled to sell the objects of delivery during the ordinary course of business; however, he assigns here and now all claims to us at the rate of the final invoice owed by him for the purchase price (including VAT) due to him from the sale to his customer or third party, irrespective of whether the objects of delivery were sold in a processed or unprocessed state. The buyer is authorized to collect the claims even after the assignment. Our right to collect the claims ourselves remains unaffected. We commit ourselves not to collect the claims as long as the purchaser meets all his contractual payment obligations and no application for insolvency proceedings has been filed. If one of the last mentioned circumstances occurs, the buyer must provide us on demand with all information, which are necessary to collect the assigned claims, and to hand over the corresponding documents as well as to inform the respective debtors (third parties) about the assignment. The object of delivery shall always be processed or transformed for us. If the goods supplied by us are processed together with other goods not belonging to us, we acquire joint ownership on the new item in the ratio of the value of the supplied object compared to the value of the other processed objects at the time of processing. The object created by processing shall be subject to the same provisions as the object delivered under reservation. If the goods supplied by us are inseparably mixed with other goods not belonging to us, we acquire joint ownership on the new item in the ratio of the value of the supplied object compared to the value of the other mixed items. If the mixing happens in such a manner that the item of the buyer is to be regarded as the main item, then, it is agreed that the purchaser transfers joint ownership on a pro rata basis to us. The purchaser shall keep the generated herewith the sole or joint ownership for us.

If the total of securities exceeds the value of claims to be secured by more than 20%, the seller shall be obligated at buyer's request to release the securities he is entitled to. The choice of securities to be released shall be at our discretion.

**8. Changed circumstances with the buyer**

If the financial situation of the buyer deteriorates considerably, if he disposes of goods outside the normal course of business, which we supplied under reservation of title, or, if he dissolves his company, then, we shall be entitled to declare all our claims as immediately payable, to redeem Bills of Exchange at buyer's cost, and, to continue to supply only against advance payment or provision of security. In the event of suspension of payments, or excessive indebtedness of the buyer, or upon filing of insolvency, or composition proceedings over his assets, we shall be entitled at our discretion either to assert the above rights, or to withdraw from the contract according to statutory provisions.

**9. Place of jurisdiction — Place of performance — Choice of law**

The place of performance for all deliveries is the warehouse. Place of performance for all other rights and obligations is the registered office of our company.

If the buyer is a merchant according to the German Commercial Code (HGB), a legal entity under public law, or a public asset under public law Ohndruf is the place of jurisdiction. However, we shall be also entitled to take proceedings against the buyer at the legal venue of his place of residence.

This contract shall be exclusively governed by the laws of the Federal Republic of Germany. The validity of the UN Sales Convention is excluded.

If any of the sales and delivery terms should be invalid, the validity of the contract shall remain otherwise unaffected. Invalid terms shall be replaced by statutory provisions.