

Delivery and payment terms

I. General

The following delivery and payment terms apply to all business relations with our customers. All purchaser conditions of purchase are hereby opposed and will not constitute a provision of this contract including where not expressly rejected on our part. Any agreements differing from our delivery and payment terms require our written confirmation.

II. Offer and delivery

1. Our offers are subject to change without notice.
2. Contracts are only first deemed binding following our written acknowledgement of order or performance of delivery.
3. Technical documentation such as drawings, specifications, images and such like, are purely indicative; we reserve the right to effect any changes deemed necessary on our part.
4. All technical documentation remains our intellectual property and may not be copied or duplicated or made available to third parties in any way. Such documentation may be used for maintenance and service insofar as commensurately designated for such by ourselves.
5. Technical documentation relating to offers not resulting in a subsequent order must be returned immediately.
6. Part deliveries are permitted; each part delivery is deemed an independent transaction.
7. For the calculation of sales of loose or ungraded sacks of goods of European origin transported from the country of origin by rail or road, the loaded weight at the place of departure will apply; however, the seller reserves the right at all times to reweigh the goods upon arrival and offset the commensurate arrival weight.

III. Prices and payment terms

1. Insofar as not otherwise agreed in writing, all prices are ex works, excluding insurance, in the currency prescribed in the offer and without deduction. All extra charges are payable by the purchaser. The purchaser will also bear the cost of any taxes, fiscal charges, fees and custom duties.
2. We reserve the right to effect price adjustments where rates of pay, material costs or fiscal charges change between the time of offer and the time of delivery effected in accordance with the contract.
3. Our invoices are payable within 30 days from the date of invoice. In the case of delayed receipt of payment or extension of the payment period and insofar as evidence of greater or lesser loss has not been furnished by one of the contracting parties, interest will be calculated from the due date at a rate of 8% above the respective base interest rate of the German Bundesbank.
4. Any retention of payments or offsetting is only permissible where counterclaims on the part of the purchaser are undisputed or judicially non-appealable.

IV. Retention of title

1. All goods remain our property until all outstanding and any future accounts payable by the purchaser as a result of the business relationship have been paid in full.
2. Acquisition of ownership of the reserved goods by the purchaser in accordance with Section 950 of the German Civil Code (BGB) where the reserved goods have been processed into a new item is precluded. All such processing is carried out by the purchaser on behalf of the seller. The processed goods only serve as security for the conditional purchaser to the value of the reserved goods. Should the purchaser effect processing in combination with other goods not belonging to

the seller, the seller will acquire a pro rata right of co-ownership in the resulting new item at a ratio commensurate with the value of the reserved goods vis-à-vis the value of the other processed goods at the time of processing. In remainder, provisions applicable for the reserved goods will likewise apply to the newly formed goods, which will be deemed reserved goods within the scope of these terms.

3. All accounts receivable from the resale of the reserved goods by the purchaser are hereby assigned to the seller, irrespective of whether the reserved goods are resold prior to or after processing and whether they are resold to one or more customers. The assigned accounts receivable will only serve as security for the conditional purchaser to the value of the reserved goods sold. In the event that the purchaser sells the reserved goods together with other goods not belonging to the seller, be it prior to or subsequent to processing, assignment of the purchase money claim will only apply up to the value of the reserved goods, which, together with the other goods, constitute an object of this sales agreement or part of the object sold.

4. The purchaser is only entitled and permitted to resell or dispose of the reserved goods to the extent that the purchase money claim arising from the resale is assigned to the seller in accordance with 3 above. The purchaser is not availed of any further disposition in terms of the reserved goods.

5. The purchaser is revocably entitled to collect accounts receivable from resale irrespective of assignment; whereby the seller's authority to collect remains without prejudice from the purchaser's entitlement to collect. The seller will not collect accounts receivable providing the purchaser duly fulfils its payment obligations. At the seller's request, the purchaser is to notify the seller of the identity of the debtor of the assigned claim and to notify the debtor of the assignment. Retention of title in accordance with the aforestated terms also applies where seller's claims are included in an outstanding account and invoicing (balance) has been implemented and approved.

6. Retention of title on the part of the seller is conditional on the fact that, upon payment in full of all accounts receivable claimable by the seller within the scope of business relations, title to the reserved goods and any assigned claims immediately pass to the purchaser. The seller undertakes to selectively release securities assigned to it in accordance with the aforestated terms insofar as the value of such collateral exceeds the value of the seller's accounts receivable by more than 20%.

7. Should the purchaser choose to exercise its right to return defect goods, this will not constitute a withdrawal from contract. The seller is to be notified without delay of third party access to goods or accounts receivable subject to retention of title as well as any petition for the initiation of composition proceedings or the opening of such proceedings, regardless of whether the petition has been submitted by the seller or another creditor. The purchaser is to adequately insure the goods subject to retention of title in accordance with para.1 against fire and theft. Any claims against the insurance company arising from an event of damage are hereby assigned to the seller to the value of the reserved goods.

8. The purchaser is to adequately insure the goods subject to retention of title against fire and theft. Any claims against the insurance company arising from an event of damage are hereby assigned to us to the value of the reserved goods.

V. Delivery periods

1. We endeavour to effect each delivery as quickly as possible; however, without undertaking any guarantee of compliance with a specific delivery time. Compliance with delivery periods is deemed fulfilled when the goods for delivery have been duly despatched from the plant within the applicable delivery period.

2. In the case of damage suffered by the purchaser on account of default of delivery on our part, the purchaser is entitled to claim flat-rate compensation for delay amounting to 0.5% for each full week, however, up to a maximum of 5% of the value of the respective part of the overall delivery that could not be punctually or contractually used as a result of the delay. Where – taking into account statutory exceptions – the purchaser sets us an appropriate deadline for delivery subsequent to the due date, which we then fail to meet, the purchaser will be entitled to withdraw from the contract within the scope of statutory provisions. Any further claims arising from default of delivery are determined exclusively in accordance with Section VIII of these terms.

3. We are not responsible for delays in delivery or non-delivery resulting from force majeure such as fire, flood, war, government measures, transport and operational breakdowns, industrial action, or non-delivery due to incorrect or delayed delivery on the part of our suppliers, regardless of reason. In such cases, the delivery period is to be extended accordingly.

VI. Passing of risk

Insofar as not otherwise agreed, risk passes to the purchaser in each case upon delivery to the forwarder or carrier; however, at latest upon despatch from the respective branch or warehouse.

VII. Claims arising from defects

1. Goods are delivered with the workmanship and quality that are standard for us at the time of delivery. Details of percentage contents and analysis data are non-binding average values.

2. Our deliveries are to be inspected for correctness upon receipt. In the case of short deliveries or transport damage, complaints are to be lodged without delay and will only be acknowledged when established at the place of delivery by agents duly authorised by the carrier (railway, storage company or handling plant heavy goods vehicle). Incorrect deliveries and any other defects are to be reported in writing without delay; however, no later than 14 days following receipt of goods at the destination. All further processing is to be suspended. Following expiry of this period the goods will be deemed accepted.

3. In the case of justifiable complaints lodged within the stipulated period, we are to be granted the opportunity to effect supplementary performance within a commensurately appropriate period of time. Notwithstanding any claims for damages in accordance with Section VIII, where supplementary performance fails, the customer is entitled to withdraw from the contract or reduce payment. Claims for defects are not acknowledged for mere minor defects.

VIII. Liability

1. Regardless of the grounds for such and insofar as no liability according to 2 and 3 exists, claims for damages and repayment of expenses by the purchaser, particularly in relation to infringement of contractual obligations and tortious acts, are precluded.

2. Irrespective of legal foundation, we only accept liability for damages not stemming from the object of delivery itself in cases of

a) wilful intent

b) gross negligence on the part of the owner, agents or executive employees,

c) culpable damage to life, body or health,

d) defects, where we are maliciously silent or have guaranteed the absence of such,

e) defects in the object of delivery, insofar as liability is imposed in accordance with product liability law for personal injury and material damage to privately used objects.

3. In the case of culpable infringement of fundamental contract obligations, we also accept liability for gross negligence on the part of non-executive employees and ordinary negligence, whereby the latter is limited to reasonably foreseeable damage typical to the contract. In the aforementioned case, our liability for ordinary negligence is limited to EUR 250,000 for each individual claim.
4. Statutory provisions regarding the burden of proof remain without prejudice from the aforesaid regulations.

IX. Limitation of actions

Irrespective of legal foundation, all claims on the part of the purchaser are barred by limitation following a period of 12 months. In respect of periods for compensation pursuant to Section VIII 2 a-e, statutory periods of limitation apply.

X. Place of performance, legal venue and German federal data protection

1. This contract is subject to German law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
2. Place of performance in terms of payments is Aschaffenburg.
3. Legal venue is Aschaffenburg. However, the seller is also entitled to institute proceedings at the registered headquarters of the plaintiff.
4. The seller hereby draws attention to the fact that purchaser data relating to mutual business transactions is processed within the scope of the German Federal Data Protection Law (Bundesdatenschutzgesetz).

XI. Severability clause

Should any of the above provisions be inoperative, regardless of reason, this will not prejudice the validity of all remaining provisions. The inoperative provision is to be replaced with a legally effective alternative provision most closely meeting the economic intention of the inoperative provision in question.