

1. Conclusion of Contract

The following terms and conditions apply exclusively to all conclusions of the contract, including those in the future. They are to be acknowledged by the mandant in purchase order forms or written purchase order notifications, but at the latest through acceptance of delivery. Deviating terms and conditions of the mandant are hereby explicitly and finally excluded.

All contracts with our mandants only become effective with our written order confirmation, which may also be given at the same time as billing. Our quotations and price lists are subject to change without notice under the limiting condition of our written order confirmation.

Undertakings, ancillaries and alterations to the contract are required to be in written form to be effective.

2. Prices

Our prices apply where nothing is otherwise agreed in written form, ex our Bad Rappenau warehouse and excluding packaging and dispatch costs. Value Added Tax is to be added to the prices at the appropriate rate. Delivery is free of charge to the address of buyer for orders with a value of € 500.00 and above.

All prices agreed or contained in price lists are calculated on the basis of our currently applicable purchase prices, payroll rates, duties and freight costs. Should a period of time of longer than 4 months expire between the conclusion of the contract and the agreed delivery date (where there are call orders, the agreed time of the relevant part-delivery shall be decisive), we reserve the right to make a reasonable increase in the delivery price reflecting any increase in the above-mentioned costs. Where there are special deliveries, prices are calculated separately.

We reserve the right to make alterations to the construction and form of the good during the delivery period, where the mandant does not experience any unreasonable changes in the good and its appearance as a result. Besides this, all volumes, measurement details and similar features are to be understood with the tolerances customary in trade or commerce.

3. Fulfilment, Risk of Loss and Defective Performance

To the extent that nothing is agreed otherwise, we deliver carriage forward and uninsured ex our Bad Rappenau warehouse. Should delivery be agreed free of charge to the place of reception, we shall be entitled to bill for the actually expended transport costs or a package. At the explicit request of the mandant, we can insure the good against transport damages at the expense of the mandant.

Risk passes to the mandant from the day of readiness for shipment. Where there is transport damage, the mandant must immediately record the facts of the matter at the office responsible, as claims against the person or body entrusted with the transport and against an insurance policy could otherwise lapse.

Should the manufacture or delivery of the ordered good temporarily become excessively impeded or temporarily impossible, for instance where there are acts of God or official measures for which neither we nor our suppliers are responsible, stoppages or strikes, then we shall be released from the delivery commitment for the duration of the hindrance and its consequences.

Should the execution of an order be interrupted for a period of longer than 30 days for reasons for which the mandant is responsible, we shall be entitled to invoice for the services performed up until that point.

4. Delivery

Our delivery times apply ex works. They begin with the day of order confirmation, although not before clarification of all details and, where there is exportation, the provision of an import licence where necessary and the opening of a commercial letter of credit where agreed. In either case, observance of the delivery period pre-requires that the contractual duties be fulfilled. The delivery period may be extended to a reasonable extent due to subsequent requests by the mandant to make alterations or additions.

Where there is non-observance of delivery dates, the mandant may only withdraw from the contract if he has allotted a reasonable period within which to make performance and this has expired without success. Damage compensation claims against us, irrespective of their nature, are excluded where there is ordinary negligence.

Events due to acts of God shall entitle us to extend delivery by a reasonable period or to withdraw from the contract insofar as it is not fulfilled. Equal to acts of God are circumstances (for example involving the supply of raw materials or operation) making delivery fundamentally difficult or impossible for us. Claims for damage compensation covering purchase or subsequent delivery are excluded.

5. Payment Conditions

Invoices of below € 50.00 shall be payable immediately and without deduction. Invoices of € 50.00 and above shall be payable within 10 days of the invoice date with 2% discount or within 30 days of the invoice date without any discount. Where there is delay and subject to the assertion of further damages, interest on arrears is to be calculated at a proven level but at a rate not less than 4% above the Bundesbank discount rate.

We accept discountable bills and cheques only on the basis of explicit agreement and only on account of payment. Expenses and costs are to be paid immediately upon transfer of the bill or cheque. Bills and cheques shall only be credited following receipt of the net amount and only in the same amount. All our accounts receivable shall become immediately due for payment, irrespective of any time limit for payment or the term of any bill or other papers discounted, if the payment conditions are not observed by the mandant or if we become aware of other circumstances (i.e. bill protest or payments in arrears) under which, in our view, the reduction of the creditworthiness of the mandant is appropriate. In this case, we can also demand immediate advance payment and reasonable security payment for any outstanding deliveries or services to be made by us, or withdraw from the contract or demand damage compensation on the grounds of non-fulfilment. Similarly, we can also prohibit the resale and reprocessing of goods supplied by us and demand the return of these to us at the cost of the mandant. Should the mandant suspend its payments, become bankrupt or strive for court composition proceedings, then all discounts, premiums and any other types of privilege granted by us shall count as not guaranteed.

6. Offset

Rights of retention of the mandant, insofar as they are not based upon the same contractual relationship and acknowledged or established in law by us, as well as offset with an account receivable that is disputed or not established in law, are excluded.

7. Reservation of Ownership

We reserve the ownership of the delivered goods until the point of fulfillment of all claims resulting from the business relationship, including interest, subsidiary claims and the costs of any legal prosecution, as well as the costs of intervention due to an attachment of the delivered good by a third party. Cheques and bills shall be valid only with redemption as payment. To the extent that we remain subject to drawer or endorser liability from a bill given in the context of the commercial relationship, our claims shall count as not fulfilled.

Insofar as it is a reseller, the mandant shall only be entitled to access to the delivered good in the framework of orderly business performed in accordance with its regulations. In such a case, it now assigns to us all future claims towards its client resulting from resale or reprocessing, including balance account receivables of any kind from an agreed current account, and similarly from any account receivable resulting from the rental of the delivered good. Until further notice, the mandant shall be entitled to the forfeiture of the assigned account receivable in its own name.

Upon demand by us, the mandant shall be obliged to inform us of the names of the clients in relation to which it has purchased claims through the disposal or processing of our good, and of the amounts owned by these clients, and to guarantee us access to its books and accounts to that extent. The mandant must inform us immediately of any attachment of the delivered good. To the extent that goods delivered by us become fundamental components of a piece of real estate of the mandant, we shall be entitled, subject to the compelling rights of mortgagees, to dismantle the delivered goods again and return them to our site for security reasons. Where there is culpable behaviour in violation of the contract, in particular where there is payment delay on the part of the mandant, we shall be entitled to remove any goods in our possession for reasons of security. In the absence of an explicit declaration, this demand and a compulsory execution to goods delivered by us shall not count as withdrawal from the contract, should this be compulsorily proscribed by law, and neither shall it count as the demand, which may be made by us at any time, separately to store the good in our reservation of ownership and to identify the good.

Should the value of the securities existing for us exceed that of our accounts receivable by over 20%, we shall be obliged, upon demand by the mandant to that extent, to release the securities according to our choice.

8. Warranty

Where there are clear deficiencies in title, complaints must be lodged with us in detail and immediately after their discovery, but at the latest 14 days after receipt at the place of destination. These complaints must consist of precise written descriptions of the deficiencies in title.

Where there are justified and prompt complaints, warranty shall take place with the exclusion of continuing claims by us or by a third party in our responsibility and according to our choice. Warranty shall take place by means of the rectification of defects, exchange of a part or replacement delivery of the defective part.

If we rectify defects or replace parts on the basis of the warranty, the warranty period for the object of delivery that has been rectified or in which the repaired or replaced part has been installed shall not be extended by that period. According to our choice, we give warranty on the repair or the replaced or repaired part to the extent that the repair or replacement shall be carried out again.

Should we be committed to carry out assembly as well as delivery of the good, our performance shall count as accepted and approved if complaints about clear deficiencies or deficiencies established in the course of the acceptance inspection are not lodged with us in an inspection report to be signed by both parties to the contract. In the absence of an inspection report, complaints should be lodged with us not later than 12 working days after the end of assembly as notified by us. Our warranty obligation shall lapse if the good is altered by a third party without our agreement or if foreign parts are installed in the good, unless a complaint lodged by the mandant has demonstrably not been caused as a result.

Warranty claims of the mandant shall act as a bar within one month after our written rejection, but at the latest 6 months after receipt of the good or the completion of assembly as notified by us.

Costs arising for us as a result of unjustified complaints, in particular travel expenses, shall be at the encumbrance of the mandant.

9. Non-acceptance

Should the mandant not accept a delivery within a reasonable period of time after the notified manufacture, should it provide no forwarding instructions or refuse to accept a delivery or service, or should dispatch not be possible more than one month after the agreed delivery time for reasons for which we cannot be held responsible, we shall be entitled, according to our choice, either to store the good with a forwarding agent at the cost and risk of the mandant or to store the good at our own warehouse. In the latter case, we shall be entitled to an amount equal to 75% of the storage costs of a forwarding agent.

Under the circumstances mentioned above, or should the mandant fall more than 2 weeks behind with the fulfilment of its payment obligations or the payment of an agreed security, we shall be entitled, after previously allotting a period of 2 weeks within which to make performance, to withdraw from the contract and to assert damage compensation on the grounds of non-fulfilment at a proven level, but at least in the amount of 20% of the contractually agreed price excluding Value Added Tax.

10. Place of Fulfilment and Place of Jurisdiction

The place of fulfilment for both parties is Bad Rappenau. The place of jurisdiction, also for bill and cheque processes, is Heilbronn, to the extent that the mandant is a fully qualified merchant, a judicial person of public law or the bearer of a public-legal special fund, or has no general place of jurisdiction in Germany. We are also entitled, in all cases and according to our choice, to initiate legal proceedings against the mandant at the seat of the same. German law is applicable.

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