

General Delivery Conditions

1. Preamble

The only conditions which are valid for each order of our products as well as for each other use of services provided by the seller are these delivery conditions. We contradict any conflicting and/or deviating conditions of the buyer. They do not apply. Possible modifications of these General Delivery Conditions require the prior written consent of the seller. These General Delivery Conditions are also valid in case of oral confirmations or confirmations by phone.

Any typographical, clerical or other error or omission in any sales prospectus, price-list, offer or other documentation of the seller is allowed to be corrected by the seller and the seller cannot be held liable for any damage resulting from said errors.

These General Delivery Conditions only apply to merchants.

2. Order and Offer Documents

Orders placed by the buyer can only be considered as accepted by the seller, if the seller or his/her representative/agent accepts the order in writing within 21 days after its placement.

Quantity, quality and description as well as any specification of the goods correspond to the offer of the seller (if it is accepted by the buyer) or to the order of the buyer (if it is accepted by the seller). All sales documents, specifications and price-lists have to be treated as strictly confidential and are not allowed to be made accessible to third parties. The buyer is responsible for the accuracy of the order. Furthermore, he has to provide the seller with all necessary information regarding the goods ordered within a reasonable timeframe to enable the seller to process the order as per agreement.

If the goods have to be produced or processed in any other way by the seller in accordance with a specification of the buyer, the buyer has to indemnify the seller from any loss, damages, costs or other expenses which the seller has to pay or is ready to pay when the processing of the goods infringed a patent, copyright, trademark or any other property right of a third party due to the specification of the buyer.

The seller reserves the right to modify the description of goods with regard to the specification in so far as legal requirements are to be considered, provided that this modification does not deteriorate the order as regards quality and usability.

3. Purchase Price

The purchase price is the price mentioned by the seller or, if this is not the case, the purchase price is the price in the current price-list of the seller which is valid at the time the order is placed.

The seller reserves the right to increase the price in so far as it is necessary due to the general price development beyond the supplier's control (such as currency fluctuations, currency regulations, changes in customs duty, considerable increases in material or production costs) or due to the change of the delivery circumstances or due to the underrun of the minimum purchase volume mentioned in the valid sales price-list, but all that after having informed the buyer in a timely manner and before the dispatch of the goods.

All prices mentioned by the seller are on the basis „ex works Incoterms 2010“, unless otherwise stated in the offer or in the valid sales price-lists or otherwise agreed between seller and buyer in written form. The buyer has to bear the costs for transport, packaging and insurance as far as the seller is ready to deliver the goods at other locations.

The prices are exclusive of the applicable legal value-added tax which the buyer has to pay additionally to the seller.

If the conditions for an exemption from the turnover tax are fulfilled (e.g. internal EU trade), the buyer does not have to pay it, unless the buyer fails to mention the value-added tax identification number on the order or to provide the proof of being exempted from the turnover tax. In these cases, the seller is allowed to charge the value-added tax. If the tax authorities raise the value-added tax on an invoice subsequently, the buyer is obligated to exempt the seller to the full extent, respectively to pay the value-added tax to the seller afterwards.

4. Payment Conditions

They buyer has to pay the purchase price within 30 days after the date of invoice. Payments shall only be effected by bank transfer; bill of exchange and payment by check are not considered as fulfillment of the payment obligation.

If he buyer does not fulfill the payment obligation on the due date, the seller is – without prejudice to any other right or remedy – allowed to:

- terminate the contract or to suspend further deliveries to the buyer or

- charge the buyer interest on the amount unpaid until payment has been done in full; the interest amounts to 7 % p.a. above the respective reference interest rate of the European Central Bank. The buyer is entitled to prove that the delay of payment did not cause any or little damage only.

5. Delivery of Goods

Delivery is effected ex warehouse. This is also the place of performance for the delivery and a possible supplementary performance. The goods can be supplied to another place of destination upon request and at the expense of the buyer (sale by dispatch). The seller is authorized to determine the type of shipment (especially forwarding agent, dispatch route) unless otherwise agreed.

The delivery of the goods is done in the way that the buyer accepts the goods at the respective place of lading of the seller and during the normal business hours of the seller as soon as the seller notified the buyer that the goods are ready for collection or, if another place of delivery was agreed with the seller, the goods have to be delivered to that place.

In case of bulk commodities, the seller is allowed to supply 10 % more or less than the quantity ordered without any price adaption. It is agreed that the quantity of goods delivered like this shall be deemed to be conform to the contract.

Specified delivery dates are to be considered as approximate dates, if no fix date was agreed. If a fix date was agreed upon in the contract, the seller is entitled to prolong the delivery time by four weeks, but has to inform the buyer three week before the originally fixed delivery date in written form.

If the seller does not supply in time, the buyer has to grant him/her an extension in written form. After the expiration of this extension the buyer is allowed to terminate the contract. The buyer is only allowed to claim for damages due to non-fulfillment, if the delay in delivery is based on intent of gross negligence or if the seller violated an essential contractual obligation due to (simple) fault.

If the buyer accepts goods with delay or if he/she fails to cooperate or if the delivery is delayed due to any other reasons for which the buyer is responsible, the seller is entitled to claim damages including additional expenses (e.g. warehouse charges) resulting from this. If the buyer fails to accept the goods on the due date, he has to pay the purchase price anyway. In these cases, the seller arranges for the storage at the risk and at the cost of the buyer. If requested by the buyer, the seller insures the goods

at the expense of the buyer. If the buyer delivers the goods to a third party, it is his/her responsibility to comply with

possible export restrictions, customs regulations and other official provisions. The buyer herewith explicitly exempts the seller from possible claims resulting from a violation of such regulations to the full extent.

The seller cannot be held responsible for the impossibility of delivery or for delays in delivery as far as they are caused by force majeure or other events which were unforeseeable at the time of the conclusion of the contract for which the seller is not responsible (e.g. operating disruptions of all kind, difficulties in material procurement, transport delays, strikes, official measures or non-delivery or incorrect or late delivery by the supplier). In case of obstacles of temporary nature, the delivery or service deadlines are extended or postponed by the period of the obstacle plus an appropriate warm-up period.

6. Transfer of Risk

The risk of accidental loss and deterioration of the goods is transferred to the buyer as follows:

- upon handover, if the goods are not delivered at a place of lading of the seller or at the time when the seller offers the delivery of the goods, if the buyer is in default of acceptance,

- at the time when the seller informs the buyer that the goods are ready for collection, if the goods are delivered at a place of lading of the seller („ex works“, Incoterms 2010).

7. Retention of Title

The delivered goods (reserved goods) remain property of the seller until all claims which the seller may have now or in the future against the buyer have been settled, including all current account debit balances. If the buyer acts contrary to the contract – especially, if he is in default of payment – the seller has the right to take back the reserved goods after the buyer was granted a reasonable deadline for performance. The buyer has to bear the transport costs for the withdrawal. If the seller takes back reserved goods, this constitutes a withdrawal from the contract. It is also a withdrawal from the contract, if the seller distrains the reserved goods. The seller is entitled to utilize the reserved goods taken back. The revenue from this utilization will be offset against the amount owed by the buyer to the seller after the seller deducted an appropriate amount for the utilization costs.

The buyer is obliged to handle the reserved goods with care. He has to insure them against fire, water and theft damages at its original value and at his own expense. If maintenance and inspection works are necessary, the buyer has to carry out such works in due time and at his own expense.

The buyer is allowed to utilize the reserved goods and to resell them in the ordinary course of business as long as he/she is not in default of payment. However, he is not allowed to pledge the reserved goods or assign them to third parties as security. The buyer already now assigns the claims for payment against his/her customers resulting from a resale of the reserved goods as well as the claims regarding reserved goods which arise from other legal reasons against his/her customers or third parties (especially claims based on tortious acts and entitlement to insurance benefits) including all current account debit balances to the seller to the full extent for security purposes. The seller accepts this assignment. The buyer is entitled to collect the assigned receivables to the seller (on his/her behalf in his/her own name) as long as the seller does not withdraw this authorization.

The right of the seller to collect these receivables on his/her own won't be affected, the seller won't enforce the receivables by himself/herself and the direct debit authorization won't be withdrawn, as long as the buyer meets the payment obligations in due form.

If the buyer behaves contrary to contract, especially if he/she is in default with payment, the seller may require the buyer to inform us about the assigned debts and the respective debtors to inform the debtors of the assignment.

The buyer has to provide all documents to the seller and all necessary information.

Any processing or modifications of the reserved goods conducted by the buyer are always taken for the seller.

If the reserved goods are inseparably connected/modified with other goods/items which are not owned by the seller, the seller acquires a co-ownership on the new product in relation to the value of the reserved goods (final invoice amount, including VAT) to the other processed goods at the time of processing goods.

Furthermore, the terms for the reserved goods apply also to the new product after processing/modify. If the reserved goods are combined or mixed, so that the product of the buyer is regarded as main product, the buyer and the seller agree that the seller proportionately transfers a co-ownership to the buyer. The seller accepts this transfer.

The resulting sole ownership or co-ownership will be kept by the seller to the buyer

In cases of distraint of the reserved goods by third parties or in case of other third-part actions, the buyer has to point out to the seller's property and he/she has to inform the seller of this in writing, so that the seller can enforce his property rights.

If the third party is not able to reimburse the costs which incurred in this context (judicial or extrajudicial), the buyer is liable.

If requested by the buyer, the seller is obligated to release the due collaterals if the realizable value of those exceeds the outstanding due claims in favor of the seller by more than 10 %. It is the seller's decision to choose the collaterals to be released.

8. Warranty

In case of material/quality defects regarding § 434 BGB (German Civil Code) the legal provisions apply to the rights of the buyer.

All special legal provisions regarding final deliveries to end customers/users remain unaffected in all cases (supplier regress according to §§ 478, 479 BGB).

Warranty claims presuppose that the buyer fulfilled his legal obligations and reprimand duties before (§§ 377, 381 HGB).

If a proper examination and/or a notification of defects are failed, liability for the reported defects is excluded.

Goods may only be returned upon the seller's request.

The seller is not responsible for the goods being used for a certain purpose unless otherwise agreed upon.

Liability of the seller can be assumed under the following conditions:

- The seller is not responsible for defects on goods based on a description or specification of the seller - The seller is not responsible for defectiveness of goods, if the goods are not paid till due date.

-The responsibility of the seller does not extend to parts, material or other equipment produced by the buyer or in his/her behalf, unless the manufacturer of these parts assumes responsibility towards the seller.

This liability does not cover any product defects which are caused by wrong installation or usage, misuse, negligence or other reasons.

An exemption of liability of the seller does not apply if the cause of defect is based on gross negligence or intent or if other contractual obligations are breached.

The buyer may require replacements, repairs or price reductions if this is stated in the individual contract.

If the seller is responsible and informed about a defect on the goods, he/she has to grant replacement free of charge or rectification of deficiencies.

If the seller is not willing or able to rectify defects or to replace goods, the buyer is entitled to cancel the contract or to reduce the price of goods.

If the seller asks the buyer to return goods, the buyer is obliged to fill in the return form (can be downloaded under www.wikus.de). This form has to be sent to the seller in advance and it has to be attached to the delivery of return.

If the return form is not sent to the seller and is not attached to the delivery documents and is not visibly attached on the returned goods which causes that the assignment of goods is more difficult or impossible, all warranties of the buyer are cancelled.

If the returned goods are not properly packed for transport, the buyer has to pay for any damages

The seller can charge the costs to the buyer which are caused by unjustified requests for rectification of defects (especially costs for transport work and material).

Warranty claims of purchasers become time-barred within one (1) year after the corresponding delivery of goods.

9. Liability

The seller is liable without limitation for damages, violation of life, body or of health which are caused by breach of duty of the seller, of a legal representative or of a vicarious agent as well as for damages caused by lacking of a guaranteed condition of the seller or by fraudulent behavior of the seller.

Furthermore, the seller is liable for damages caused by gross negligence or willful intent caused by the seller or by their legal representatives or vicarious agents.

In this case the liability is limited to the price of the respective delivery.

Except in the case of willful intent and gross negligence as well as assuming of a guarantee, the seller is not liable for indirect damages, e.g. loss of profit or lost savings.

Liability under the Product Liability Law remains unaffected.

In case of slight negligence of essential contractual obligations, the seller is liable (except cases mentioned above) to the amount limited to typical contractual foreseeable damage, but not exceeding the amount of all agreed deliveries and services.

Essential contractual obligations are abstract obligations, whose fulfillment make the proper execution of the contract possible and the contract parties may regularly rely on them.

Claims because of defects of goods or defects of title become time-barred one (1) year after delivery. If acceptance has been agreed, the limitation period begins with the acceptance.

Claims based on contractual breach of duty against the seller become time barred within one (1) year after statutory limitation period.

This does not apply to claims on intentional behavior of the seller. Incidentally, liability of the seller is excluded.

10. Further Provisions

The seller reserves the right to improve or modify any of the products without prior notice, provided that such improvement or modification shall not sustainably affect the form or the function of the product.

These terms of delivery supersede all other agreements which have been made by the parties orally or in writing prior to the date hereof and which shall become invalid upon availability of these terms.

These terms shall be treated confidentially by each party involved unless otherwise agreed upon in writing.

A free right of termination of the buyer (in particular according to §§ 651, 649, BGB) is excluded.

The seller complies with the German legal provisions regarding compliance with minimum wage.

11. Changes of General Delivery Conditions

The seller reserves the right to change the General Delivery Conditions without the mentioning of specific causes at any time, unless the changes are not acceptable for the buyer.

The seller has to inform the buyer about changes of general delivery conditions timely.

Such changes become valid, if the buyer does not contradict within six (6) weeks after receiving information about changes.

In the notification of change, the seller informs the buyer on his right of appeal and the importance of the objection deadline.

Moreover, the seller reserves the right to change the General Delivery Conditions (a) if the change is only advantageous for the buyer (b) insofar the seller is obliged to establish the agreement of the General Delivery Conditions with applicable law, especially if the current legal situation changes (c) insofar the seller complies with a court judgment against him/her

or with an administrative decision or (d) insofar the seller introduces new goods or services which have to be mentioned/ specified in the General Delivery Conditions, unless the current contractual relationship will be disadvantageously changed. The seller informs about such changes of General Delivery Conditions.

12. Choice of Law; Place of Jurisdiction

Place of jurisdiction is the location of the seller. The German law applies under exclusion of the international private law and of the United Nations Convention on Contracts for the International Sale of Goods which has been taken over to the German law.

The seller is entitled to sue at a court which can be also responsible for the buyer or at each other court according to any national or international law.