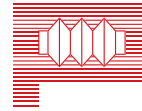


# Terms & Conditions



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Unless otherwise agreed in writing between the Parties, the following terms and conditions shall apply to all current and future supplies of goods and services.

## 1. Contract conclusion

Orders are only binding for the Seller following written confirmation or issuance of an invoice. General terms and conditions of the Buyer are hereby rejected. They shall likewise not be recognised even if they are not objected to upon receipt by the Seller. General or individual terms that contradict or supplement these terms and conditions shall only be binding if they are included in the agreement or approved in writing by Seller.

## 2. Jurisdiction and place of performance, applicable law

The place of performance and jurisdiction is Mülheim a.d. Ruhr. This agreed jurisdiction shall also apply to cases covered by section 38 (3) of the German Code of Civil Procedure (ZPO). Solely the law of the Federal Republic of Germany shall apply. Shipping risk from the place of performance shall be borne by the Buyer, even if the delivery was agreed as freight paid or free within Germany. For all other obligations regarding the place of performance arising from the contract, particularly for the delivery and handover of goods by the Seller, as well as the examination of the goods by the Buyer in accordance with section 377 of the German Commercial Code (HGB), the place of performance is the European port of arrival for non-European goods that reach the Buyer from such port of arrival rather than Mülheim a.d. Ruhr. In the case of goods obtained by the Seller from suppliers located within Europe, the place of performance and acceptance is the agreed place of destination.

## 3. Licences and permits

The contract is concluded subject to final and timely issue of the necessary export and import license and / or other official authorisations that are required for the completion of this transaction. Force majeure and other circumstances that are beyond the control of the Seller that make supply difficult or impossible release the Seller from performing this contract. Claims for damages are excluded. In such cases, the Seller is entitled to postpone delivery until a reasonable period following the cessation of the impossibility or inability, or to release itself from its delivery obligations. Should the Buyer contest the existence of these conditions, the Buyer shall bear the burden of proof. Moreover, any compensation due to non-performance or delay is excluded. If delivery is impossible for the reasons stated above, the two parties may exercise a right of withdrawal for 3 months following the original delivery date. However, if the Buyer is in default of acceptance or if risk has already passed to the Buyer, the Buyer remains obliged to perform. The Buyer has no right of withdrawal in such cases.

## 4. Goods - quality - quantity - type

The goods must be of sound and commercially standard quality in accordance with the description. The Seller does not guarantee that the product is suitable for the use for which it is intended or used. Nor is it liable for hidden, for inherent or other defects, which appear following incorporation of the goods, or for damages that arise during processing. In the event of differences in quality, the Buyer has no right to compensation, nor may it demand spare parts or conversion. It can, however, request payment of the loss in value, unless the Seller has already agreed to take back the goods, in which case the transaction is considered to have been rescinded with the exception of all mutual claims for damages. The Buyer is then required to keep the goods at the disposal of the Seller at the agreed destination and to hand them over there. Complaints that do not reach the Seller within 7 days - 14 days if outside the Federal Republic of Germany - following delivery of the goods to the agreed destination, are late and void. Complaints are also only valid if they are made in writing within the specified time and the goods are still in their original condition. A complaint does not exempt the Buyer from payment of the purchase price. Complaints about dimensions will only be accepted if the difference is demonstrably beyond a tolerance of 3% upward or downward. To comply with the deadlines set out in these terms and conditions, it is sufficient to send the written complaint within the deadlines at a post office, whereby the date of the postmark is authoritative, or to send a telex.

## 5. Passage of risk

Risk passes to the Orderer or Buyer when the goods are shipped, even with partial deliveries. If delivery of the goods is delayed at the request of the Buyer or due to other circumstances for which the Seller is not responsible, the risk shall pass to the Buyer upon notification of readiness for shipment.

## 6. Shipping

Unless there are special shipping instructions, the Seller shall ship the goods to the at its discretion. In any case, the Buyer is obliged to accept the delivered goods. Delivery is free from the departure station on the account and risk of the recipient. The Seller is entitled to make a partial delivery without seeking the consent of the Buyer. In terms of payment, each partial delivery is considered as a separate transaction.

## 7. Prices and payment

Unless another currency is agreed, prices are in euros. Payments are to be made in the invoiced currency. Should other currency and means of payment be accepted by the Seller, it is hereby instructed to obtain the means of payment shown in the invoice. The Buyer is to immediately pay any exchange rate differences upon demand by the Seller. The Buyer shall bear any increases in freight charges, foreign currency transaction rates, insurance rates, customs duties, taxes or other levy increases of any kind, as well as the import, export and customs regulations, which arise during the term of the contract. Invoices are payable in full in cash, net within 30 days or within 10 days with a 2% discount. An open payment may not exceed 30 days following the payment deadline. If the payment period is exceeded or if the payment has not been made by the agreed payment date, a default occurs without a reminder. From the day of default, default interest is payable at the rate of 5% above the discount rate of the Deutsche Bundesbank. The right to claim a high-interest rate for default damages is reserved. Assignments, bills of exchange or cheques will only be accepted on account of performance. The Buyer shall bear the cost of collection and discount charges, as well as duties on bills of exchange. Passing to a third party and prolongation do not mean fulfilment. Acceptance of bills of exchange also does not represent a respite of the claim to the purchase price. The Seller may exercise its rights under the sales contract at any time. The purchase price is fulfilled when the recourse against the Seller of the submitted bill of exchange is excluded, and this is fully redeemed. Any exchange adjustment, however, must take place within 10 days following the start of the payment period. The payment date is the date on which the Buyer has demonstrably sent the payment.

## 8. Retention of title

Delivered goods remain the property of the Seller until full payment of the purchase price of all conforming deliveries within the business relationship, including all ancillary claims; when paying by cheque or bill of exchange, this means until such payment means have cleared. Payments in the form of a bill of exchange which is issued by the Seller and accepted by the Buyer shall only be regarded as made when the bill of exchange is redeemed by the Buyer and the Seller is therefore exempt from the liability of the bill, so that the agreed retention of title (without prejudice to further agreements) and other reser-

Until such time, the Buyer is not entitled to pledge the goods to third parties, or to assign them as security. Insofar as they are processed or converted by the Buyer, the Seller is considered as the manufacturer in the sense of section 950 of the German Civil Code (BGB) and acquires title to the interim or end products. The Buyer is then merely the custodian. The Buyer is entitled to resell the goods and product thereof in the ordinary course of business. The Seller hereby transfers any claims against third parties arising from the resale, or for any other legal reason, to the Buyer for their security, to the extent that the goods have been processed. As long as the Buyer meets his payment obligations towards the Seller, it shall be entitled to collect the respective receivables on behalf of the Seller.

However, the Seller is entitled to be informed of the buyers, on request, and give instructions. The Buyer must immediately notify the Seller of any seizure or attachment of goods delivered under retention of title, or to the transferred claims, by third parties. The right of retention is also valid toward the forwarder to whom the goods are handed over at the request of the Buyer or the Seller. The goods under retention of title are to be handled carefully and insured against fire and water damage.

In cases of damage, insurance claims take the place of the reserved property and the proceeds from claims assigned in advance. If the secured claim increases by 25% because of retention of title of the existing security, the Seller shall release the paid delivery at its discretion. If, following the conclusion of the contract, there is a substantial deterioration in the financial circumstances of the Buyer or the Buyer states its inability to fulfil its obligations on time, the Seller is free to demand advance payment in cash at an amount to be defined by it or to make use of its legal rights (cancellation, damages, etc.). In this case, the Buyer must pay the Seller all costs and damages, as well as any lost profits. As part of this agreement, the Buyer is obliged to make disclosures to the Seller at any time on re-quest, and to provide information, in particular about the whereabouts of the goods and the proceeds

## 9. Rights in the event of default and defects; liability

Insofar as the delivered item does not have the quality agreed between the buyer and the seller or the item is not suitable for the use presupposed according to the buyer's contract or the use in general or the item does not have the properties which the seller could expect according to public statements of the seller, the seller shall be obliged to remedy the defect. This shall not apply if the Seller is entitled to refuse subsequent performance on the basis of the statutory provision. Subsequent performance shall be effected by remedying the defect (rectification) or delivery of new goods. In doing so, the buyer must grant the seller a reasonable period of time for subsequent performance. The buyer is not entitled to reduce the purchase price or withdraw from the contract during the supplementary performance. If the seller has unsuccessfully attempted to remedy the defect twice, the remedy shall be deemed to have failed. If the subsequent performance has failed, the buyer is entitled to reduce the purchase price or to withdraw from the contract.