

General Terms and Conditions (dated: 01/2019)

I. General – Scope of Application

1. Our terms and conditions will be enforced exclusively. We do not accept terms and conditions brought forward by the client that oppose or deviate from our terms and conditions, unless they have been approved by us in writing. Our terms and conditions even apply in cases where we carry out unconditional deliveries to the client knowing that his terms and conditions oppose or deviate from ours.
2. All agreements made between us and the client with regard to the execution of this contract must be incorporated into the contract in writing.
3. Our terms and conditions apply only to business owners according to § 14 BGB.
4. Our terms and conditions also apply to all future business transactions with the client.

II. Offer – Offer Documentation

1. Our offers are – except it was differently agreed – always not-binding and without obligations.
2. If the order qualifies as a binding offer according to § 145 BGB, we are able to accept it within 4 weeks.
3. The scope of the delivery and performances is based on our written order confirmation.
4. We claim ownership and copy rights for all illustrations, drawings, calculations and other documentation; they may not be made accessible to third parties. This applies especially to those written documents that are marked "confidential". Any distribution by the client to third parties requires a specific written approval from our side. Verbal agreements as well as alterations of contract become first by a written confirmation of us effective.
5. The cancellation of orders requires our explicit consent. We are then entitled to claim damages.

III. Prices – Terms of Payment

1. Unless the order confirmation states otherwise, our prices are quoted ex works, packaging costs excluded.
2. Statutory value-added tax is not included in our prices; the statutory amount of the value-added tax will be listed separately on the invoice on the day of billing.
3. If cost increases or other circumstances, that could not be predicted, occur after confirmation and before completion of the order, we are entitled to adjust the prices accordingly. The increase in price must be in proportion to the scope of changes that occurred.
4. Any discounts require specific written agreements.
5. Tools, equipment and other special devices that we had to acquire for individual products will remain our property even if the partial or entire cost for these expenditures is billed in the invoice.
6. Unless otherwise stated in the order confirmation, the invoice amount is due net (without deduction) after the date of the invoice and must be paid within 30 days or 10 days after the invoice date with a 2% discount. If the customer comes to default, we are entitled to demand interests on arrears by height of the bank loan interest calculated to us, at least however, at the rate of 9 percent points about the base interest rate sentence. If we are able to prove a higher delay damage, we are entitled to assert this. Nevertheless, the customer is entitled to prove to us that to us has originated as a result of the default nobody or a substantially lower damage.
7. In case of failure to pay within the agreed period of time, we are entitled – without prior announcement - to demand immediate settlement of claims, check payments or notes receivable, even if they are not due yet. In these cases, we are also entitled to deliver only against advance payment or security deposit, as well as to withdraw from the contract after a reasonable grace period and to demand compensation.
8. The client's right to set off costs only applies, if his counterclaim is legally valid, undisputed or accepted by us. In addition, he has the right to retain payment as long as his counterclaim is based on the same contractual premises.

IV. Blanket Orders

1. If blanket orders or call orders have not yet been fully requested by the buyer after expiry of the agreed term, we are entitled, in our sole discretion and without special notice, to partially or completely complete and invoice the remaining delivery of the open quantity or to conclude the blanket order without further deliveries and invoicing.

V. Delivery Time

1. The beginning from us in the confirmation of order given delivery time or the observance of the date of delivery given by us assumes the purification of all technical questions at the time of our information of the delivery time or the date of delivery.
2. In case of an act of God or other unforeseen, exceptional circumstances that happen through no fault of our own, such as difficulties in procuring material, interruptions in the operation, strike, lock-out, lack of transportation vehicles, official infringements, difficulties in the energy supply, etc., even if they happen at sub-supplier level, we have the right to appropriately extend the delivery time, provided we are unable to fulfill our responsibilities on time. If the above mentioned circumstances make the delivery or services impossible or unreasonable, we will be exempt from our delivery responsibilities. We are entitled to cite these circumstances, provided we immediately inform the client.
3. We are entitled to part deliveries in the extent reasonable from the customer as well as to more and short deliveries in the customary extent (10%), this shows no lack.
4. If we are at default with regard to delivery and the client allows for an appropriate grace period with the threat of refusing to accept late deliveries, the client is entitled to withdraw from the contract, provided the grace period expires without positive action on our part. The client is only entitled to claim damages based on non-fulfillment to the amount of the projected damage,

if the default results from an intentional or negligent act, or a substantial breach of duty; damage liability is limited to 20% of the incurred damage.

5. The compliance with our delivery duties requires a timely and proper adherence to responsibilities on the part of the client.
6. If the client enters into default in accepting the delivery of goods or if he neglects any contributory duties, we are entitled to claim damages that have occurred including possible additional expenses. If during the time of a default in accepting the delivery the purchased goods accidentally get destroyed or damaged, the risk of such a circumstance is being transferred to the client at the point.
7. If the purchaser does not accept the delivery items immediately upon readiness for shipment, we will store them, if possible, at his risk. This storage does not release the purchaser from his payment obligation, which occurs at the time of the provision.

VI. Transfer of Risk

1. Unless the order confirmation states otherwise, delivery is carried out "ex works".
2. The danger goes over at the latest in sending the delivery on the customer, namely also if part delivery occurs. This also applies if the transport is carried out with our own means of transport.
3. If the dispatch is delayed as a result of circumstances which the customer has to represent, the danger crossing arrives on the day of the announcement of the dispatch readiness.
4. Transportation material as well as all other packaging according to the packaging code cannot be returned; with the exception of pallets and reusable packaging (blister, trays). The client is responsible for disposing of the packaging material at his own cost. At the client's request and at his own expense, we will insure the shipment with transport insurance.

VII. Defects - Warranty

1. Recognizable objections of every delivery after correctness, amount or goodness must be immediately indicated on receipt of the product by the customer in writing. Not recognizable objections of every delivery after correctness, amount or goodness must be immediately indicated after her discovery by the customer in writing. Otherwise the product is valid as approved, provided that the delivered product does not deviate obviously from the order so considerably that we must look at the approval of the customer as impossible. Unimportant interferences and divergences found no lack.
2. If a justifiable defect of the purchased goods is presented to us, we have the choice to rectify the defect or send a replacement. In case we decide to rectify the defect, we are obligated to cover all costs necessary to correct the defect, particularly transportation, logistics, labor and material expenses, provided the expenses have not increased due to the fact that the purchased goods are delivered to a different location other than the place of delivery. Expenses are only covered to the amount of the purchase price.
3. If we are not willing, prepared or we refuse to correct the defect or ship a replacement, or if the process is delayed beyond appropriate deadlines for reasons we must be able to justify, or if the correction or replacement of the product fails in any other way, the client is entitled to either choose to back out of the contract or reduce it.
4. The client is not entitled to claims with regard to the defective shipment, if the object in question has been modified in such a way that the cause of the defect is no longer apparent, or if the client installs or repairs defective parts and chooses to retouch the part himself or have the work done by a third party.
5. Unless the following statements (paragraph 6 and 7) bear different results, any additional claims on the part of the client become invalid – no matter what the legal cause is. We are therefore not liable for any damages that did not occur directly on the object of shipment; in particular, we are not liable for any lost profits or other financial damages that the client might suffer.
6. Preceding liability free drawing is not valid, as far as the damage cause is based on intention or coarse carelessness. She is not valid further for qualities for which we have taken over a deuce duty independent of fault (so-called assured quality).
7. In case we violate an essential contractual commitment or a main responsibility, damages are limited to an amount typical of a contract; if paragraph 4 goes into effect, the client is not entitled to any damages.
8. The warranty period extends to 24 months starting at the transfer of risk, with the exception of cases where we are liable for willful action. This period constitutes a term of limitation and is also valid for claims requesting replacement for consequential damages of defects, as long as there are no claims resulting from unlawful action.

VIII. Comprehensive Liability

1. There is no possibility of any additional liability for damage claims beyond section VII, paragraph 5 through 7 – no matter what the legal nature of the claim that was brought forth might be.
2. The policy outlined in paragraph 1 does not apply for damage claims according to §§ 1,4 of the Product Liability Law. Unless the liability limitation according to section VII, paragraph 7 goes into effect for claims resulting from the manufacturer's liability according to § 823 in the BGB, our liability is limited to the substituted coverage of the insurance. Unless this insurance fails to pay or only partially pays, our liability extends to the full amount of the insurance coverage.
3. The policy outlined in paragraph 1 applies to a justifiable impossibility.
4. If there is no or limited liability on our part, the same regulation applies to the personal liability of our workers, employees, colleagues, representatives and any persons employed by us to fulfill the performance of our obligations.
5. The time limitation of damage claims between supplier and client follows the policy outlined in paragraph 8 under section VII, unless there are claims resulting from the manufacturer's liability according to §§ 823 contd. in the BGB.

IX. Conditional Sale Safeguarding

1. We reserve the right to claim ownership of the purchased object until we receive payment as a result of the delivery contract. In case of behavior contrary to the contract on the part of the client, particularly with regard to default in payment, we are entitled to retake possession of the purchased goods. Taking back the purchased goods does not indicate an intention to cancel the contract, unless we specifically declare this in writing. By pawning the purchased goods, however, the contract is cancelled. After purchased goods have been repossessed, we are entitled to liquidate them. The liquidation proceeds are to be credited towards the client's liabilities, minus the appropriate amount for liquidation expenses.

2. The client is responsible for handling the purchased goods with care. He is also responsible for insuring them at his own expense against fire, water damage and theft at the value when new. If maintenance and inspection work is necessary, the client must carry these out on time and at his own expense.
3. If a third party pawns the goods or interferes in any other way, the client must immediately inform us in writing so that we are able to bring forward a claim according to § 771 ZPO. If the third party is not in a position to reimburse us for any judicial and out-of-court expenses of a lawsuit according to § 771 ZPO, the client is liable for the financial loss incurred.
4. The client is entitled to resell the purchased goods through ordinary business operations. With that, he must assign to us all claims in the amount of the agreed total sum on the invoice (including value-added tax), that he might incur through reselling the goods to his clients or third parties, regardless of whether or not the purchased goods were processed before they were resold. The client is still entitled to pursue these claims, even after he transfers to us the right to do so. Our authorization to collect payment directly remains unchallenged. However, we commit ourselves to refrain from collecting payment, as long as the client meets his obligation to pay as a result of the obtained proceeds, does not enter into default of payment, and particularly, does not file for bankruptcy or conciliation proceedings or as long as he does not suspend payment. If this should occur, we are in a position to demand that the client announces the assigned claims and names of debtors, gives the required details on the payment collection, supplies the obligatory documents and informs the debtor (third party) of the assignment.
5. The processing or modification of purchased goods by the client is always performed for us. The contingent right of the client toward the purchased goods continues with the modified items. Is the purchased item processed with objects we do not own, we acquire joint ownership of the new item in proportion of the objective value of the purchased item to the other processed objects at the time of the processing. The same guidelines that were valid for the object purchased under said conditions now apply to the processed new item.
6. If the purchased item is permanently combined with objects we do not own, we acquire joint ownership of the new item in proportion of the objective value of the purchased item to the other objects that were added at the time of the blending. Is the blending carried out in a way that the object of the client is considered the main part, it is the agreement that the client transfers a proportionate share of the joint ownership to us. The client will detain the newly created sole or joint ownership for us.

X. Court of Jurisdiction – Place of Contract Fulfillment – Choice of Law – Severability Clause

1. If the client is a full-time merchant, Balingen is considered the Court of Jurisdiction. However, we are entitled to sue the client at his place of residence/business location as well.
2. Unless the order confirmation states differently, our business location is considered the Place of Contract Fulfillment.
3. The law of the Federal Republic of Germany, with the exclusion of the CISG (Convention on Contracts for the International Sale of Goods), is the only law that regulates any legal relations between us and our clients.
4. If one or several of the above described regulations should be or become ineffective, the effectiveness of the remaining policies remains unchallenged.