

1. Scope

All our offers, sales, deliveries and services shall exclusively be governed by the present terms and conditions. Any deviating and supplementary terms and conditions, including any general terms and conditions of the customer about which we have been informed, shall only be binding for us if they have been agreed in writing. Our silence over any such terms and conditions of the customer shall not be deemed as consent. Our terms and conditions shall also apply to all future transactions with the customer. The present terms and conditions shall apply to merchants only if the contract forms part of their trading operations as well as to legal entities and special funds under public law. In addition to our terms and conditions, German law shall apply. The application of UN sales law shall be excluded.

2. Offers

All offers and list prices shall be non-binding. The contract shall enter into force only upon confirmation or execution of the order by us. The customer shall immediately inform us about any errors in the order confirmation.

3. Creditworthiness

When orders are accepted, the customer is assumed to be creditworthy. If a material deterioration of the customer's creditworthiness becomes apparent after conclusion of the contract, which gives us reasonable grounds to believe that the customer will not fulfil a material part of its obligations, we shall be entitled to suspend the production of the ordered goods and to refuse delivery until an advance payment is made or a directly enforceable bank guarantee is provided. A material deterioration of the creditworthiness shall in particular be assumed if the customer is in default with the payment of an earlier delivery or if unfavourable information is received from credit institutions or credit insurers. If the customer fails to make the requested payment or to provide the requested guarantee, we shall be entitled to withdraw from the contract.

4. Prices and conditions

Unless agreed otherwise, our prices are quoted ex works, free on truck; statutory value-added tax shall be added. If agreed otherwise, the additional transportation costs incurred for deliveries to islands without road links shall be borne by the customer.

5. Delivery date and quantity

Partial deliveries shall be permissible and shall be invoiced separately by us. If partial deliveries are initiated by us, no extra charges for small quantities shall be invoiced even if the surcharge-free minimum quantity is not met. In all other cases where the quantity ordered is below the minimum, quantity, an adequate lump-sum freight surcharge shall be invoiced.

In the event of force majeure as well as traffic and business disruptions, labour disputes, lack of raw materials etc., the delivery period shall be adequately extended. The same shall apply if the customer fails to enable the necessary prior clarification of technical issues in a timely and orderly fashion. The right to object to non-fulfilment of the contract shall remain reserved. We shall be liable in accordance with the legal regulations if the delay in delivery results from a wilful or grossly negligent breach of contract by us; any fault of our representatives or vicarious agents shall be our fault. Unless the delay in delivery results from a wilful breach of contract by us, our liability for damages shall be limited to the foreseeable, typically occurring damage. We shall also be liable in accordance with the legal regulations to the extent that the delay in delivery for which we are responsible results from the culpable breach of a material contractual obligation; in this case, our liability for damages shall, however, be limited to the foreseeable, typically occurring damage.

6. Packaging

The goods shall be packaged as customary in the industry. Square timbers, pallets, wooden crates and lids shall be invoiced separately if they are not returned free of charge in a reusable state within four weeks. As a matter of principle, disposable pallets shall be invoiced at delivery of the goods.

7. Shipping

Our goods shall be shipped ex works at the customer's risk, even if the freight charges and other costs are borne by us. We shall not be obliged to take out transport insurance.

8. Payment

Unless agreed otherwise, invoices shall be settled within 30 days of the invoice date without any deduction. If the customer falls into arrears with a payment or stops making payments, all payment obligations of the customer from the business relationship to us – including those for which bills of exchange have been provided – shall become due. If the payment deadline is exceeded, we shall be entitled to charge interest in the amount of 8 percentage points above the basic interest rate applicable at the time. In this case, immediate offsetting against any counterclaims shall be permitted to us. Any further claims resulting from a delay in payment shall remain unaffected by the above. Payments received shall at our choice be used to offset the oldest or the less secured liability. Offsetting by the customer shall only be permitted if the customer's counterclaims have been legally established, are undisputed or have been accepted by us. The customer shall furthermore be permitted to exercise a right of retention to the extent that the customer's counterclaim results from the same contractual relationship.

9. Retention of title

We shall retain title of ownership to the delivered goods until receipt of all payments resulting from the business relationship with the customer. Our title of ownership shall also cover the new products created by processing the goods delivered under retention of title. The processing by us as a manufacturer shall not result in any liabilities on our part. In case of processing, combination or mixing with materials not owned by us, we shall acquire co-ownership at the ratio of the invoice value of the goods delivered by us under retention of title to the invoice values of the other materials. To secure our respective claims under paragraph 1 above, the customer shall herewith assign all claims arising from the sale of goods delivered by us under retention of title including any outstanding balances as well as bills of exchange and cheques to us. For the sale of goods co-owned by us, the assignment shall be limited to the share of the claim which corresponds to the share of our co-ownership. In case of processing under a contract for work, the labour cost claim in a pro-rata share to the amount of our invoice for the processed goods delivered under retention of title shall herewith be assigned to us. If the goods delivered under retention of title become an essential part of a property as a result of their installation and if the customer thereby acquires claims, the customer shall herewith assign a pro-rata share in the amount of our invoice for the installed goods delivered under retention of title to us. The customer shall be entitled to dispose of the goods owned or co-owned by us in the ordinary course of business and to collect the claims assigned to us as long as the customer's obligations towards us are duly met. The right to collect the claims shall expire upon revocation, at the latest, however, if the financial situation of the customer deteriorates materially. For this case, we shall herewith be authorised by the customer to inform the latter's customers about the assignment and to collect the claims ourselves. The customer shall be obliged to disclose the third-party creditors to us upon request and to provide the information required to assert the assigned claims. The goods delivered under retention of title and/or the assigned claims may not be pledged or assigned as security.

We shall be immediately informed about any attachments and the details of the attaching creditor shall be provided to us. The taking back of goods delivered under retention of title shall only be deemed a withdrawal from the contract if we expressly declare so in writing. We shall be entitled to utilise any goods we take back; the proceeds from the utilisation shall be offset against the liabilities of the customer – less adequate utilisation costs. If the customer cooperates with a factoring bank for non-recourse factoring, a resale authorisation shall only be granted if instead of the purchase price claim the claim against the factor is assigned to us in advance, we are informed of the assignment and the factor consents to the assignment. We accept this assignment. If the value of the collateral exceeds the claims to be secured by more than 10%, we shall release collateral to the extent required at our own discretion upon request by the customer. Should the retention of title not be permissible or only be permissible to a limited extent in accordance with the legal regulations in the customer's country, our above rights shall be limited to the legally permissible extent.

10. Liability for defects

Claims for defects may only be submitted by the customer if the customer's obligation to inspect and notify defects in accordance with Section 377 of the German Commercial Code (HGB) has been met. All notices of defects shall be submitted in writing, precisely indicating the individual alleged defects. Irrespective of any defects, the goods shall be accepted and properly stored. We shall be given the opportunity to inspect the rejected goods. Deviations or changes within the relevant technical standards as well as other minor deviations which do not significantly affect the use of the goods for the contractually assumed purpose shall not be considered defects. In case of proven defects, we shall rectify the defects at our own discretion either by removing the defects or by delivering goods free of any defects upon return of the rejected goods. In the event of a removal of defects, we shall only bear the expenses up to the amount of the purchase price. If we fail to rectify the defects, the customer shall be entitled to reduce the purchase price or withdraw from the contract at the customer's discretion. We shall moreover be liable for damages in accordance with the legal regulations provided that the customer asserts claims for damages which result from the wilful intent or gross negligence including of our representative(s) or vicarious agent(s). If we are not accused of any intentional breach of contract, our liability for damages shall be limited to the foreseeable, typically occurring damage. We shall moreover be liable in accordance with the legal regulations if we culpably violate a material contractual obligation; in this case, our liability for damages shall, however, be limited to the foreseeable, typically occurring damage. Liability due to culpable damage to life, body or health shall remain unaffected; this shall also apply to mandatory liability in accordance with the German Product Liability Act (Produkthaftungsgesetz). Unless stipulated otherwise above, liability shall be excluded. To the extent that our liability is excluded or limited, this shall also apply to the personal liability of our employees, staff, representatives and vicarious agents. All claims shall be subject to the statutory periods of limitation.

11. Data processing

We shall be entitled to process data of the customer which we have received due to our business relationships from the customer or third parties in accordance with the provisions of the German Federal Data Protection Act (Bundesdatenschutzgesetz).

12. Place of performance and jurisdiction

The place of performance for both parties shall be Rheda-Wiedenbrück and for deliveries it shall be the place of dispatch. If the customer is a merchant, the place of jurisdiction shall be the competent court at our place of business or, at our own discretion, the general place of jurisdiction of the customer.