

General Terms of Delivery KOLB

1 Exclusive applicability and acceptance of our 'General Terms of Delivery'

Exclusively applicable are our general terms of delivery, which the customer accepts with the issuance of purchase orders. This shall also apply to future business even if not these are not expressly referenced again but which the customer has received with an order confirmation from us. If an order is issued deviating from our delivery- and payment terms, our delivery- and payment terms still apply even if we don't object. Deviations are only valid if expressly accepted by us in the written form.

2 Offers - additional agreements - contract content - quotation documents

- 2.1 Our offers are non-binding in the sense that a contract is only created when we accept the order.
- 2.2 Additional agreements in regards to our offers, order confirmations, as well as agreements made with our customer service and sales personnel require our written confirmation to be valid.
- 2.3 In case of doubt, the contract content is exclusively determined by our written confirmation.
- 2.4 Documents attached to our offers (pictures, drawings, dimensional and weight references, etc.) shall apply approximately if not expressly identified as binding. We reserve all property- and copyrights for such documents. These documents shall not be made accessible to third parties and shall be returned to us immediately upon request in case that an order is not extended to us.

3 Prices and payment

- 3.1 Our prices are, if no other agreements exist, for the delivery ex works but without freight and packaging, as well as for all other services excluding insurance and sales tax. We always apply the sales tax as required by law at rates valid on the date of sale.
- 3.2 If, for orders delivered more than four months after creation of the contract, our purchasing cost, labor- or salary cost increase until completion of the orders, we shall be allowed to invoice for the cost increase according to the scope of the relative share of purchasing cost and/or labor cost in the agreed upon price.
- 3.3 We reserve the right to increase or decrease the agreed upon quantities up to 10% based on production yield, and apply the resulting price increase or decrease to the invoice amount as far as it can reasonably be imposed upon the buyer.
- 3.4 If no other agreements exist, our services or products shall be paid without deductions no later than 30 days after the invoice date. Our customer service and sales personnel are not authorized to accept payments. Available discounts for early payments may only be applied if the buyer is not in default with payments for previous amounts due. Payment terms and conditions as disclosed in our offer, respectively in our order confirmation, shall apply.
- 3.5 If, after acceptance of a contract, we become aware of circumstances which question the credit worthiness of the buyer, we may elect to require prepayments of security furnishings. The same shall apply if a buyer does not comply with his or her payment obligations to us by the due date. If one of these scenarios arises then all of our claims from accounts receivables with the buyer, also from other business, shall immediately become due. Insofar as we have accepted bills of exchanges, which have not reached maturity, we may demand immediate payment for the bills of exchange in return for the bills of exchange.
- 3.6 If the buyer does not pay by the due date, whether or not default exists, we are entitled to charge late fees of one percent per month or partial month or the legally allowed minimum late fees. We reserve the right to claim additional damages. The buyer is obligated to compensate all damages which may have occurred. This expressly includes all legal expense arising from the occurrence.
- 3.7 If the buyer is in default with regards to any payment obligations to us all existing accounts receivables become due immediately.
- 3.8 Insofar as we accept checks or bills of exchanges this happens with regards to payment but is not in lieu of performance. In such cases we are not responsible for the timely submission or protesting of bills of exchanges. The cost of the discounting and collections shall be borne by the buyer, he shall reimburse us for the cost immediately upon request.
- 3.9 The buyer is not entitled to offset payment balances or exercise a right of retention on balances due. This does not apply to the application of undisputed or legally binding receivables.
- 3.10 We are entitled to assign receivables resulting from our business.

4 Performance dates and periods

- 4.1 Our performance dates and periods are approximations unless they are expressly identified as binding.
- 4.2 A performance period defined only by its duration begins with the end of the day on which full agreement regarding details and content of the order was reached, at the earliest with acceptance of the order by us, but not before submission of required documents, approvals, and releases by the buyer and not before receipt of any required down payments made by the buyer.
- 4.3 Delivery deadlines and delivery dates are deemed met when the merchandise or, in cases in which merchandise can't or shall not be shipped, the notification of delivery readiness was sent prior the expirations of the deadlines from our facility.
- 4.4 If our performance is delayed due to circumstances outside of our sphere of influence (such as war, mobilization, fire, floods, strike, lock-outs, confiscation, embargoes, restriction of currency transfers, riots, general supply shortages, limitation of energy usage, operational interruptions, or similar incidents) the performance period is extended by the duration of the circumstances. This also applies to delays which are caused by incorrect or delayed deliveries to us for which we are not at fault. If such circumstances arise after our performance is delayed, consequences of default are excluded for the duration of these circumstances.
- 4.5 If we are delayed with our performance the buyer is entitled to cancel the contract if he has given us, in writing, an appropriate time period to remedy and we do not perform within that time frame.
- 4.6 The transgression of delivery deadlines or delivery dates does not entitle the buyer to claim damages against us with the exception that the transgression of delivery deadlines or delivery dates was the result of intention of gross negligence of one of our legal representatives or agents. Obligation to compensate for damages is limited to the typically resulting and predictable damages. The liability limits do not apply to injury to life, body, or health.
- 4.7 If the delivery of merchandise is delayed because of the buyer's request we are entitled, one month after notification of shipment readiness, to charge storage fees in the amount of 0.5% of the invoice amount for each month of the delay that has started.
- 4.8 If the buyer is in default of acceptance or violates other obligations to cooperate we are entitled to demand compensation for resulting damages and after granting of an extension of at least one month and corresponding notification are entitled to dispose of the products freely.
- 4.9 We are entitled to make partial deliveries and invoice separately for each partial delivery.

5 Insurance - delivery - transfer of risk - take back of packaging

- 5.1 We insure product deliveries at the request of the buyer and at the buyer's expense against typical transportation risks excluded are deliveries to foreign countries by freight forwarders or our own vehicles and pick-ups.
- 5.2 If we do not receive specific delivery instructions we will deliver the merchandise at our discretion by the most reasonable mode of transportation. The goods will be shipped at the expense of and at risk of the buyer.
- 5.3 The risks of the loss or deterioration of the goods for reasons which are not our responsibility shall pass to the buyer at the time of loading at our facility, or in case no delivery was requested at the time of the sending of our notification of shipments readiness.
- 5.4 Insofar as we are required by the packaging instructions to accept the return of packaging, the buyer is responsible for the cost of the return shipments for used packaging.

6 Retention of title

- 6.1 Merchandise delivered by us remains our property until complete payment of all receivables, including previous claims subsumed into current invoices, resulting from the business, relationship with the buyer. Claims for which we accepted checks or bills of exchanges are regarded only as paid when such checks or bills of exchanges of which we have been duly honored.

- 6.2 Should we as a result of a combination of the goods supplied by us with the goods of the buyer not acquire co-ownership, but lose our property, the ownership or co-ownership of the buyer of the new item shall immediately pass to us upon its creation. All expectant rights which could lead to such an acquisition of ownership or co-ownership by the buyer, are now already assigned to us by the latter. Any handover necessary for the acquisition of rights of ownership or co-ownership to us shall be replaced by the agreement that the buyer holds the goods on our behalf as a borrower or, insofar as the buyer does not own, with the transfer to us immediately replacing enforcement of the claim against the owner for the return of the goods.

The ownership or co-ownership resulting for us is to be treated legally like the original merchandise.

- 6.3 All the customer's accounts receivable arising from a re-sale of goods of which we are the owner or co-owner (goods supplied under retention of title) are transferred to us on the conclusion of the purchase contract, irrespective of whether the goods are sold to one or multiple buyers. If the sold goods are not solely owned by us or are sold together with goods not owned by us, the assignment of the counter-claim only covers the invoice value of our goods. If requested by us, the buyer is obligated to provide us immediately with dates and amounts of each invoice for the subsequent sale of goods supplied under retention of title.

The buyer is allowed to collect assigned accounts receivables. We may revoke this power if the buyer does not meet his obligation(s) to us in a timely manner, or if circumstances become known to us which make our rights appear in danger.

- 6.4 Should the customer be completely or partly in default in meeting an obligation secured by retention of title or should circumstances become known to us which make our rights appear in danger, we may demand the return of the goods supplied under retention of title. The existence of the purchase contract and the buyer's obligations shall not be impaired by such a demand and the return of the goods.

- 6.5 At the buyer's request, we shall release, at our choice, security interests (goods and receivables) to which we are entitled under the above rules, insofar as their value exceeds the claims to be secured by more than 20 %. The value of the securities is determined by their realizable value.

- 6.6 If our retention of title loses its validity in the case of supplies abroad or for other reasons, the buyer shall be obliged to grant to us without delay security for the items supplied or any other security for our accounts receivables which will be effective according to the law applicable in buyer's country of residence and which come as close as possible to the retention of title provision according to German law.

- 6.7 The buyer must immediately notify us and supply the documents necessary for intervention if a third party takes measures for compulsory enforcement; this also applies to interference of any other kind. The buyer shall be obliged to inform third parties of the existing rights in the goods in advance. The buyer is responsible for the cost of an intervention insofar as third parties are not able to compensate for these.

7 Warranties

- 7.1 We guarantee that all goods will be free of defects, for one year calculated from the performance according to paragraph 4.3, in the form that we will replace defective goods at our cost or remedy the defect(s). We reserve the right to elect the type of subsequent performance. We may refuse subsequent performance if the effort is unacceptable or unreasonable.
- 7.2 Our warranty does not apply to defects resulting from documents (drawings, samples, sample material, etc.) provided or approved by the buyer, or to defects resulting from inappropriate or unprofessional use, natural wear, wrong or negligent handling.
- 7.3 If parts found to be defective which we have received from sub-suppliers our guarantees shall only apply subordinately and we assign our rights to warranty against the sub-supplier to the buyer for performance of our warranty responsibilities. This does not apply if the rights remain behind those which the buyer has against us.
- 7.4 Defects in parts of our deliveries do not entitle the buyer to complain about entire deliveries.
- 7.5 Condition for our warranty obligation is that the buyer notifies us in writing immediately upon discovery of defects, insofar as the defect was discoverable upon receipt of the goods by an obligatory examination in the scope of regular business practices, and that this happens not later than eight days after the receipt of the goods.
- 7.6 Our warranty obligation is voided if goods are changed by anyone other than us. Our warranty obligation is also voided if the buyer does not follow the instructions for use.
- 7.7 If the subsequent performance ultimately fails after setting of a reasonable subsequent performance period or if we have ultimately refused the request for subsequent performance in writing, the buyer may elect to demand reduction of the compensation requested of him or modification of the contract.

- 7.8 The buyer has no further rights, in particular rights for damage claims, such as resulting from defects and because of violation of our warranty obligation, than those rights defined here, not even when our warranty obligation was invoked because of lack of a guaranty of condition or guaranty of durability. The restriction of the rights of the buyer does not apply when the defect or the violation of our warranty obligation is the result of intention or gross negligence of one of our legal representatives or agents. Claims for damages are limited to the typically resulting and predictable damages. The liability limits do not apply to injury to life, body, or health.
- 7.9 Warranties as defined by law are not extended to the buyer by us.

8 Violation of pre-contractual and secondary obligations

- 8.1 We are only liable for consequences resulting from mistakes made during the contract negotiations, in particular the results of incomplete or incorrect consultation of the buyer, if damages are typical for this type of contract and are predictable, and then only if these are the result of intention or gross negligence of one of our legal representatives or agents unless damages to life, body, or health occurred.
- 8.2 Paragraph 8.1 shall apply accordingly if the buyer experiences disadvantages resulting from our violation of contractual secondary duties, for example consultation of protection obligations.

9 Right to rescind the contract

We have the right to rescind the contract if its execution is hindered by technical difficulties that are insurmountable or can only be overcome with an expenditure that is disproportionately high compared to the value of our deliverables, or in case of lack of participation or untimely participation, which indicate a reduction in credit worthiness of the buyer.

10 Confidentiality

- 10.1 The buyer is obligated to keep confidentiality regarding our products, applicable commercial and technical knowledge made available to him as a result of our business relationship even beyond the duration of this contract. The buyer shall not use such knowledge neither for his own nor for other purposes.
- 10.2 We are accepting the corresponding obligation towards the buyer.

11 Place of performance - place of jurisdiction - applicable law

- 11.1 Place of performance for all contractual obligations in particular performance, subsequent performance, modification, reduction, acceptance of returned packaging material, and payment is Wuppertal, Germany.
- 11.2 The exclusive place of jurisdiction for all disputes on and arising from the contractual relationship, also for legal action concerning checks and bills, is the place of business of our company, but we reserve the right to sue the buyer in a different applicable jurisdiction. Should the buyer not be a general merchant, a legal person, or a public law special asset, but has a general place of jurisdiction in Germany, then these provisions shall apply should the customer relocate his registered office or normal place of residence outside the Federal Republic of Germany after the conclusion of the contract or should his registered office or normal place of residence be unknown at the time legal proceedings are started.
- 11.3 The entire contractual relationship is subject to German law (BGB/HGB) under exclusion of UN commercial law. If subject to mandatory ruling UN commercial law (United Nations Convention on Contracts for the International Sale of Goods, Vienna, 1980) shall prevail.

12 Partial invalidity

Should individual stipulations of this contract be or become invalid for any reason, this will not affect the remaining stipulations of this contract.