

## I. Validity / Quotations/Tenders

- These terms and conditions shall be valid for all - also future - contracts with companies, legal entities under public law and special funds under public law concerning supplies and other services, including contracts for work and services and supply of unjustifiable items. Contracts shall be concluded exclusively based on our General Terms and Conditions of Sale. Different terms and conditions shall not apply even if individual provisions should not be included in our conditions at all.
- Our quotations shall be without engagement. Agreements with and assurances given by our employees shall only be valid if they have been confirmed in writing.
- For the interpretation of commercial terms, the *Incoterms* in their respective current version shall be used.

## II. Payment and Offsetting

- The invoiced purchase price shall be due immediately after delivery without discount unless otherwise agreed or stated in our invoices. The amount is to be paid in such good time that we have it at our disposal as of the due date. The purchaser shall bear any possible costs of payment transactions. Offsetting or rights of retention shall only be possible if the counter-claims are either undisputed or have been legally established as final and absolute.
- After the due date or in the case of default we shall take the statutory interest rate for entrepreneurs as the basis; however, we reserve the right to claim further damages for default.
- At the latest 7 days after the due date the purchaser shall be in default; to that extent no reminder shall be required.
- If we become aware after the conclusion of the contract that our claim to the purchase price appears endangered by the purchaser's lack of solvency or if the purchaser defaults on a significant amount or if other circumstances emerge that indicate a major deterioration in its solvency, our rights under Art. 321 of the German Civil Code (BGB) shall apply. In such a case we may declare due for immediate payment all receivables from the complete business relationship not actually due yet.
- A deduction of discount assumes, on the one hand, an express agreement and, on the other hand, that all the other receivables due have been completely settled. Discount periods start from the invoice date and not from the date of receipt.

## III. Performance of Deliveries, Delivery Times and Dates

- Our delivery obligation is subject to the proviso that we ourselves receive correct and timely deliveries unless we were to blame for incorrect or late delivery to ourselves.
- Our delivery times stated shall be only approximate. The delivery periods shall start as of the date of our order confirmation and only when all the details of the order have been clarified in good time by the purchaser and the purchaser has completely met all its own obligations such as the provision of official certificates, guarantees, down-payments or suchlike.
- For the meeting of delivery times or dates, the point in time of dispatch ex works or ex warehouse shall be decisive. The same shall apply if notification of readiness for dispatch has been given and the goods cannot be dispatched on time through no fault of our own.
- If we cannot deliver on time, the purchaser shall be entitled to grant an appropriate extension of the delivery time. After its unsuccessful expiry, the purchaser can withdraw from the contract if it has not yet been completely fulfilled. Any possible claims for damages shall be regulated in Section X.
- The purchaser shall be obliged to draw our attention to the fact that the delivery or part of it is to be used as a construction product within the meaning of the Construction Products Regulation

## IV. Retention of Title

- As long as our claims - also within the context of the other business relations (balance reservation) - have not been completely settled, all the goods delivered shall remain our property ("simple retention of title") That shall apply even if payments / transfers are made expressly for specific accounts receivable.
- If our goods subject to retention of title are processed, combined or mixed together with other materials, we shall be entitled to percentage co-ownership of the new item in the ratio of our invoice value to the value of the other products used ("widened retention of title"). If our property right should by law actually have been extinguished by this combining or mixing, the purchaser shall already now assign to us the property rights to the new item to which it is (actually) entitled to the extent of our invoice value ("prolonged retention of title").
- Our goods subject to retention of title may be resold by the purchaser provided that the purchaser is not in default in relation to us.
- The purchaser may collect the purchase price / wage on its own behalf when reselling. This permission shall expire as soon as the entitlement for it is revoked, at the latest, however, upon default of payment or upon an application for the opening of insolvency proceedings. We shall only withdraw our permission if after the conclusion of the contract it is shown that our payment entitlement from the business relationship is endangered by the purchaser's lack of solvency (cf. also II.4). The purchaser shall in this case be obliged to inform its customers about this assignment without undue delay and to provide us with all documents we require for our own collection.
- If someone has issued an attachment or suchlike against the purchaser, the purchaser must also inform us of such. The purchaser shall in this case bear all the costs we have to incur in order to transport back our goods subject to retention of title or to have the attachment lifted unless someone else must take responsibility for it.
- If the purchaser defaults on payment, we may pick up our goods subject to retention of title and for that purpose enter the purchaser's premises. The right to take back the goods shall also exist if, after the conclusion of the contract, there should prove to be a lack of solvency in accordance with No. 4. In no case shall this picking up represent withdrawal from the contract. The provisions of the German Insolvency Code shall not be affected.
- If our invoice value exceeds the collateral that the purchaser has provided to us, including the collateral from these clauses as well as interest and costs, by more than 50%, the purchaser can demand that we surrender (proportionate) collateral.

## V. Quality, Dimensions and Weights

- The DIN/EN standards or material data sheets or alternatively trade practice applicable at the point in time of the conclusion of the contract shall apply primarily. If we refer to that or to the test certificate as well as to quality, dimensions, weight and usability, these shall not be assurances or even guarantees, these shall be merely product descriptions.
- Weights are theoretically determined according to usual and recognised methods by means of the length and/or area of the respective product, whilst we reserve the right to add a mark-up customary in the trade (commercial weight) to offset rolling and thickness tolerances. As an exception, evidence of the weight can also be provided by weighing slips. In that case, the measurement by our upstream supplier shall then be decisive. If we charge by weight, quantities possibly stated in the advice of dispatch shall be non-binding. If the goods are not individually weighed, a total weight shall be determined. Differently weighed individual values shall be averaged and rounded up to full kilograms.

## VI. Acceptance Inspections

- If an acceptance inspection has been agreed, it must be carried out in the supplying works and/or our warehouse as soon as we have advised the purchaser of readiness for

acceptance. The purchaser shall bear personal acceptance inspection costs; we shall charge the purchaser for the material costs of the acceptance inspections as agreed.

- If the acceptance inspection is not carried out on time or not completely and if we are not to blame for this, we may dispatch the goods also without any acceptance inspection or store them at the purchaser's expense and risk and charge for such.

## VII. Shipping, Passing of Risk, Packaging and Partial Delivery

- We shall determine the shipping route and means as well as the forwarder or carrier.
- Goods reported as ready for dispatch must be called off by the purchaser without undue delay. Otherwise we shall, following a reminder, at our option either dispatch or store them at the purchaser's expense and risk, and in any case charge for this immediately.
- Should it become impossible without our involvement to deliver the goods via the planned shipping route or to the agreed place and at the agreed time, we shall be entitled to choose a different shipping route and/or to deliver to a different place (later). Before the purchaser shall have to bear the costs incurred for this, the purchaser can comment on this.
- As soon as our goods have been handed over to the forwarder or carrier, but at the latest upon leaving the warehouse and/or the supplying works, the risk shall pass to the purchaser. Nothing else applies in the case of delivery carriage paid or of free deliveries. On express instruction and if the purchaser bears the costs, we shall take out appropriate insurance. For unloading of the goods on the spot, the purchaser alone shall be responsible.
- Unless agreed otherwise or usual in the trade in any case, we shall as a matter of principle deliver the goods unpacked and not weatherproof. If packaging, special protection or also auxiliary transportation devices have been agreed, we shall select them according to our experience and at the purchaser's expense. We shall take back packaging at our respective warehouses. We shall not bear the cost of transport nor any costs incurred by the purchaser for independent disposal.
- Especially for logistic reasons we shall be entitled to deliver partial quantities insofar as they are deemed acceptable. Excess and short deliveries that are customary in the trade and/or in the sector of industry shall be permitted.

## VIII. Call Orders / Ongoing Deliveries

- In the case of contracts with successive deliveries, the purchaser must inform us of its calls and the desired division as far as possible into equal weekly or monthly quantities, otherwise we shall ourselves divide up the calls at our own discretion.
- If the individual calls exceed the contractually owed total quantity, we shall be entitled, but not obliged, to deliver an excess quantity. The excess quantity shall, however, be invoiced at our prices applicable at the time of call or delivery.

## IX. Liability for Material Defects

- Material defects are to be reported in writing (also by e-mail) immediately, but at the latest 5 days after receipt of the goods. Defects that even in the case of ordinary commercial inspection cannot be discovered within this time are to be reported without undue delay after their discovery - likewise in writing. In any case, processing or further processing must be stopped immediately; otherwise the goods shall be deemed to be contractual.
- Irrespective of that, the purchaser shall be obliged to report any possibly missing supporting documents, in particular works test certificates, directly upon receipt of the goods.
- In the case of justified complaint within the due time limit, it is up to us to either rectify the defect or to deliver goods free of defects ("subsequent performance"). If subsequent performance is unsuccessful or if we refuse to carry it out, the purchaser shall, following the ineffectual expiry of a reasonable period, be entitled to withdraw from the contract or to reduce the purchase price. If the defect is not serious, only the right to reduce the purchase price shall exist.
- We shall only bear costs in connection with subsequent performance if they are reasonably proportional to the purchase price of the goods - but by no means over 100% of the value of the goods. The cost of the installation and removal of the defective item shall be excluded. Any expense incurred because the goods supplied by us are forwarded to a place other than the agreed place shall only be borne by us if this corresponds to their contractual use.
- If an acceptance inspection of the goods has been agreed (VI.), the purchaser's notice of defects shall be ruled out if they were detectable during the acceptance inspection. If the purchaser has, due to negligence, remained unaware of a defect, it can only make claims under performance default rights if we have fraudulently concealed the defect or, however, we have assumed a guarantee for the condition of the item.
- If the purchaser does not give us an opportunity without undue delay to satisfy ourselves as to the defect and in addition does not make available any photos or the goods complained about or at least samples of them for (our own) test purposes, it shall forfeit all its rights concerning the material defect.
- Further claims shall be determined by Section X, with rights of recourse according to Articles 478 and 479 of the German Civil Code (BGB) remaining unaffected.

## X. General Remarks, Limitation of Liability and Statute of Limitations

- Concerning the breach of contractual and pre-contractual duties, in particular because of impossibility, default and fault when initiating contracts as well as because of a tort, we shall be liable only in the case of intent and gross negligence. Liability shall be limited to the damage/loss typical of the type of contract foreseeable at the time of the conclusion of the contract. Liability for damage or loss caused by the defect and consequential damage caused by the defect shall be excluded.
- This restriction shall not apply in the event of culpable breaches
  - of major contractual obligations if the purpose of the contract is thus endangered,
  - if life, limb or health are concerned,
  - if we have assumed a guarantee for the condition or
  - if the German Product Liability Act compellingly provides for liability.
- All claims under the contract against us to which the purchaser becomes entitled shall be subject to the statute of limitations one year after delivery of the goods unless we have agreed otherwise in detail. This period shall also apply to those products that according to their type are usually used for a building and have thus caused the defectiveness. This shall not apply only if the manner of use has been agreed in writing.
- Our liability resulting from an intentional or grossly negligent breach owing to which death, bodily harm or impairment of health has occurred, shall remain just as excluded from this as is the (statutory) application of the statute of limitations to the claims for recourse.

## XI. Place of Performance, Place of Jurisdiction and Applicable Law

- The place of performance for our supplies shall be primarily our warehouses. In the case of agreed "delivery ex works", it shall be the domicile of the supplying works.
- The place of jurisdiction shall be, at our discretion, our registered offices or the purchaser's domicile
- All legal relationships and disputes shall be subject to German law, and especially to the provisions of the German Civil Code (BGB) / the German Commercial Code (HGB). On the other hand, the provisions of the CISG (UN sales law) shall not be applicable.