



General terms and conditions of sale and delivery

1. General

Our deliveries, services and quotations to industrial customers (hereinafter: Customer) shall be done exclusively on the basis of these terms of business. They shall also apply for all future business relationships even if they are not expressly agreed once more.

If Customer for its part makes reference to its own terms of business and buying, their validity is hereby contradicted to the extent that they deviate from these terms of sale and delivery.

As an AEO certified company we are requested to advise the customer to assess the safety of the supply chain in his sphere of influence and, if required, to improve it. The compliance with the regulations of the Anti-Terrorism Ordinance, Dual-Use Regulation and the Foreign Trade Regulation should be respected. All necessary available measures must be taken to ensure maximum security of the supply chain.

2. Quotations, orders

Our quotations shall be non-committal and non-binding. Orders shall only be binding for us insofar as we confirm them or comply with them by implementing the order.

3. Prices

Our prices shall be understood plus the valid Value Added Tax in Germany. The decisive factor for our calculation of prices shall be the dimensions and weights established by us. In deliveries with freight prepaid, increases of the freight rates shall be charged to Customer.

4. Delivery, dispatch, passage of risk

(1) Our delivery obligations shall be subject to supply to us.

(2) We shall be entitled to part deliveries and part services unless the part delivery or part service is of no interest to Customer.

(3) Delivery periods stated shall be regarded as approximate if not agreed otherwise with the customer. They shall only commence after complete clarification of all details of implementation and shall presuppose punctual and proper fulfilment of Customer's obligations.

(4) If Customer gets into arrears with calling, acceptance or collection of the goods, we shall be entitled to demand the damage incurred by us; the risk of chance deterioration and chance destruction shall pass to Customer with the occurrence of arrears in acceptance.

(5) The risk of chance destruction and chance deterioration shall pass to Customer as soon as the goods have been transferred to the person implementing the transport or have left our warehouse for the purpose of dispatch; this shall also apply if we have assumed the costs of the transport.

(6) To the extent that nothing else has been agreed, we shall select mode, route and contractor of dispatch at our own discretion.

5. Payment, arrears in payment

(1) Our invoices shall be due for payment immediately and without deduction insofar as other terms have not been expressly agreed in writing

(2) Bills and cheques shall only be accepted by us by express agreement and on account of payment. Discount and bill of exchange charges or other costs shall be charged to Customer. In regulation by means of bills, we can demand immediate payment of all open goods receivables if bills received are not discounted by a bank, discounted bills are re-debited or a bill is not honoured. The same shall apply if a cheque from Customer is not honoured or Customer gets into payment arrears with an instalment if payment by instalments has been agreed.

(3) Customer can only offset with an undisputed or legally effective claim. Customer shall only be entitled to exercise a right of retention to the extent that its counter-claim is based on the same contractual relationship.

(4) If a considerable deterioration of Customer's financial situation occurs after conclusion of the contract, if there are bill and/or cheque protests or if other circumstances suitable to considerably reducing Customer's creditworthiness (in particular stoppage of payments) occur, we shall be entitled to retain outstanding deliveries/services or only to implement them against advance payments or securities.

(5) If Customer gets into arrears with payment, we shall be entitled to demand default interest to an amount of 8 % above the base rate of interest p. a. notwithstanding further claims. If we can prove higher default damage, we shall be entitled to demand it. Customer shall be entitled to prove to us that no or considerably less damage has been incurred by us as a result of the default in payment.

6. Retention of title

(1) The objects of our deliveries (conditional commodities) shall remain our property until complete and final payment of all the claims accruing to us on the basis of the business relationship.

(2) In the event of breach of conduct by Customer, in particular default in payment, we shall be entitled to demand return of the conditional commodities and to take them back without this being deemed withdrawal from the contract. If the goods are taken back without further sale, we shall grant a credit of 80 % of the value of the invoice following deduction of all freight and other costs.

(3) Customer shall be entitled to sell conditional commodities in the normal course of business as long as it fulfils its liabilities to us in a proper way. This right shall expire in the event of default in payment. Customer here and now cedes the receivables accruing from further sale or any other legal reason (insurance, tort) with regard to the conditional commodities to us to a complete extent by way of security. We revocably empower Customer to collect the receivables ceded to us for its own account and in its own name. This collecting power shall expire if Customer fails to comply properly with its payment obligations, gets into difficulty with payments, if enforcement measures are taken against it or judicial insolvency proceedings are opened against its assets or the opening is rejected due to a lack of funds. Upon our request, Customer shall notify us in writing without delay to whom it sells the commodities and which claim accrues to it from the sale.

(4) Processing of our products shall always be done for us as manufacturer, albeit free of obligation for us. If our products are processed with other goods not belonging to us, we shall acquire ownership of the new object in the ratio of the value of our products to the other processed objects at the time of the processing. If our products are inseparably mixed or combined with other objects not belonging to us, we shall acquire co-ownership of the new object in the ratio of the value of our products to the other mixed or combined objects.

Customer shall keep the co-property free of charge for us with the due care of a prudent businessman.

(5) Customer shall not be entitled to further dispositions of the objects in our conditional ownership or co-ownership or of the receivables ceded to us, in particular pledging or transfer by way of security,

(6) In the event of interventions of third parties on the conditional commodities or receivables ceded, in particular pledging, Customer shall refer to our ownership and notify us without delay in writing, giving us the documents necessary to attend to our rights, so that we can assert our ownership rights.

(7) If the value of all security rights exceeds the amount of all the secured claims by more than 20 %, Customer can demand release of security at our choice to this extent.

7. Consultancy

If not agreed differently, our application engineering consultancy shall be non-binding – also with regard to any protection rights of third parties – and shall not release our customer from its own examination of our products for their suitability for the intended processes and purposes.

8. Breach of contractual obligations; liability

(1) In the event of a breach of a contractual obligation by us, the rights pursuant to the statutory provisions shall accrue to Customer subject to the following agreements.

(2) Visible defects, incorrect quantities or wrong deliveries shall be notified by Customer in writing no later than 8 days after receipt of the goods. If a defect is only found later, it shall be notified without delay, albeit no later than 8 days after discovery.

(3) If the notification of defects is justified and in the correct time, Customer shall have a claim to re-performance during the warranty period; we shall have a right of selection with regard to the form of re-performance – rectification of the defect or delivery of an object free of defects. If re-performance fails or if further attempts at re-performance cannot reasonably be expected for Customer, Customer shall be entitled to a reduction in price or to withdrawal from the contract.

(4) Delays in delivery and service due to force majeure and unforeseen obstacles outside our sphere of influence – this particularly includes strike, lock-outs, orders by authorities, stoppages, delays in delivery of essential materials which we could not prevent –, to the extent that such obstacles are of considerable influence for the delivery of the goods, shall not be answered for by us even if periods and deadlines have been agreed. This shall also apply if the circumstances occur with suppliers or their pre-suppliers. The above designated circumstances shall entitle us to postpone the delivery or service for the duration of the prevention plus a suitable lead time or to withdraw from the contract partly or totally on account of the part not yet performed. We can only make reference to the above mentioned circumstances if we notify Customer thereof without delay.

(5) If an agreed delivery date or delivery period is exceeded, Customer shall be entitled to set us a suitable subsequent period. If delivery has not been made within this period, Customer shall be entitled to declare withdrawal from the contract and to demand damages in lieu of performance. Before the expiry of the period, Customer shall not be entitled to derive rights from the fact that we are temporarily not in a position to deliver.

(6) Claims of Customer to damage or reimbursement (hereinafter: claims to damage) for whatever legal reason, in particular on account of breach of contractual obligations from the contractual relationship and from tort, shall be ruled out.

(7) The exclusion of liability pursuant to (6) shall not apply to the extent that there is mandatory liability in statutory provisions, e.g. to the Product Liability Act, in cases of malice aforethought, gross negligence, on account of injury to life, limb or health, on account of a breach of essential contractual obligations. The claim to damages on account of a breach of essential contractual obligations shall however be limited to the foreseeable damage typical in the branch insofar as there is no liability on account of malice aforethought or gross negligence or injury to life, limb or health. An amendment of the onus of proof to the detriment of Customer shall not be connected with the above regulations.

(8) Customer's rights on account of a defect in the goods delivered shall be barred by limitation in 12 months. This shall not apply in cases of injury to life, limb or health, in a breach of obligations by malice aforethought or gross negligence on our part or by deceitful secrecy concerning a defect. Statutory limitation shall also apply for claims from tort or the Product Liability Act.

(9) Offering you our comprehensive service we need your personal information being stored in our data processing. We additionally save our business correspondence for a period of 10 years, e. g. invoices. We assure you that these data are exclusively used within our company for our consulting and maintenance service only. Your data may only be transmitted to third parties if this is required for the purpose of contract processing (e. g. forwarding agencies).

9 Applicable law, place of performance, venue, partial nullity

(1) Only German law shall govern these business relationships and the entire legal relationships between Customer and ourselves, excluding all references to other legal ordinances and international conventions. The application of the Hague Purchase Convention and the UN convention on international sales of goods shall be ruled out.

(2) Place of performance for all delivery obligations on our part and for all payment and other contractual obligations of both parties shall be Neuburg an der Donau.

(3) For all and any disputes arising from the contractual relationship, provided Customer is a merchant, a public-law legal entity or public-law special assets, Neuburg an der Donau shall be the venue.

(4) Should one of these provisions be or become partly or totally ineffective or unenforceable or should a loophole be found, the effectiveness of the remaining provisions shall not be affected.