

Terms and Conditions of Purchase:

Section 1 Application

1. Our Terms and Conditions only apply with respect to entrepreneurs as per the meaning of section 310 German Civil Code (BGB).
2. The following Terms and Conditions apply to all our contracts and orders, and all goods and other services provided by us, unless they have been amended or excluded with our express consent in writing. They apply in particular even if our contractual partner provides its goods or services in accordance with deviating Terms and Conditions and we are aware of this. Terms and Conditions of our contractual partner shall apply only if we confirm this in writing.
3. Our Terms and Conditions also apply to all future contracts and orders, even if a copy of which is not resent to our contractual partner in connection with our order.

Section 2 Offer and concluding a contract

1. If our contractual partner does not accept our orders within three days of receipt, we shall be entitled to cancel the order.
2. All our orders, ancillary agreements and warranties are only binding if they are made in writing.
3. All agreements between us and our contractual partner must be recorded in writing upon conclusion of the contract. All other agreements, including those concluded later, shall only be effective if they are confirmed in writing by us, insofar as this is restricted by the power of attorney issued to our employees or representatives.

Section 3 Written Form

If the written form (in writing and signed) is stipulated in these Terms and Conditions, declarations made by fax or e-mail are also deemed to fulfil this requirement. A written agreement shall also be deemed to have been concluded if we regularly exchange written declarations with overlapping content which are in writing and signed with our contractual partners.

§Section 4 Payments

Our payments will be made within thirty days if the complete original invoice has been received at our main factory in Remscheid, and the underlying delivery has been made to the agreed locations six days prior to invoicing. If payment is made within 14 days of invoicing, we are entitled to deduct a discount of 3 %.

Section 5 Set-off and right of retention

We may set off our counterclaims in every case in accordance with the statutory provisions or exercise the right of retention.

Section 6 Delivery and transfer of risk

The performance and price risk are first transferred to us in any event upon arrival of the goods and services with us or at the receiving location designated by us.

Section 7 Delivery deadlines and call-offs

1. Agreed delivery deadlines and periods are binding. The time of receipt of the goods by us shall be decisive in determining whether delivery deadlines have been adhered to.
2. Our call-offs shall become binding at the latest when our contractual partner has failed to object within two business days from receipt.
3. Our contractual partner shall notify us of any delivery delays, stating the reasons for and the expected duration of the delay as soon as it determines that delivery will be delayed.
4. If the delivery is delayed due to force majeure by more than two weeks, than after fruitless expiry of a further grace period set by us we may withdraw the contract.

Section 8 Shipping

1. Unless otherwise agreed, the delivery/freight shall be DDP to place of use including packaging and all incidental expenses. If we have to bear the cost of dispatch in individual cases, shipping must be carried out by the cheapest available method. We expressly waive any shipping insurance and shall not reimburse any insurance costs. For all commercial clauses, the INCOTERMS as in force at the time the contract was concluded shall apply.
2. Our contractual partner shall in principle package the goods, if this is required by the nature of goods in order to prevent transport damage as far as possible.

Section 9 Models, drawings and samples

We shall retain title to drawings, models, templates, samples and similar items in all cases and they may not be relinquished or otherwise made available to third parties without our consent. Our contractual partner shall impose a corresponding obligation on its subcontractors.

Section 10 Characteristics of the goods, obligations to investigate an dreport defects, liability for defects

1. Goods and services of our contractual partner shall comply with the applicable legal and trade association provisions, accident prevention and HSE regulations and the current state of the art.
We may require alterations to be made to the item delivered, insofar as this is reasonable for our contractual partner, in design and implementation, whereby the consequences, especially with regard to increased or reduced costs and delivery deadlines and periods, must be appropriately regulated.
2. Our contractual partner undertakes the obligation to deliver only goods for which it has performed a 100 % final inspection with regard to checking compliance with proper materials, design and standards.
3. We are only required immediately to report to our contractual partner defects which are overt and readily identifiable without investigation or in any case recognized by us as well as additional or reduced work; in other respects, section 377 German Commercial Code (HGB) does not apply.
4. Our contractual partner hereby assigns to us its warranty claims (claims based on liability for defects) to which it is entitled in connection with the manufacture, delivery or performance against third parties, suppliers or subcontractors. The own liability of our contractual partner for defects is neither excluded nor restricted by this assignment. However, we are obligated to reassign the relevant claims to our contractual partner if and insofar as our contractual partner has itself discharged its obligations to us due to defects. We are obligated, at the request of our contractual partner, at any time with respect to third parties, suppliers and subcontractors of our contractual partner to make declarations which are necessary or useful for the enforcement or safeguarding of the assigned claims or take any necessary or appropriate acts of cooperation.

Section 11 Producer liability

Our contractual partner shall indemnify us against all claims for damages which any third partner asserts against us under the legal provisions regarding tort, product liability or any other provision due to errors or defects in the items produced or delivered by us or our contractual partner, provided that such claims are also justified against our contractual partner or only not justified because of subsequent limitation. Our contractual partner shall also indemnify us against the costs of litigation instigated against us in respect of such claims in the above circumstances.

If the claims asserted against us also are justified or no longer justified simply because of subsequent limitation, we shall be entitled to proportional indemnification against our contractual partner, the scope and amount of this which are governed by section 254 German Civil Code (BGB)

Our indemnification, reimbursement and damages claims as per section 437 paragraph 3, 478, 634 No. 4 German Civil Code (BGB) remain unaffected by the above provisions.

Section 12 Property Rights

1. Our contractual partner is responsible for ensuring that the goods supplied by it to do not infringe any third party rights, in particular patents, registered designs and other intellectual property rights. Our contractual partner shall indemnify us against claims of third parties arising from any infringement of such rights. In addition, it shall bear all costs incurred by us as a result of claims asserted by third parties regarding the infringement of such rights and we shall defend ourselves against such claims.
2. The parties mutually undertake to treat all commercial and technical details such as their own trade secrets which have become known to them as a result of the collaboration which were not public knowledge as confidential and to not disclose these to third parties. The contractual partner may only advertise its commercial relationship with us with the prior written consent of the other party.

For each case of culpable breach of the above obligations, the parties mutually undertake to pay a contractual penalty in each case of € 10,000.00.

Section 13 Place of performance, legal venue and applicable law

1. The place of performance and exclusive legal venue for deliveries, services and payments including cheques and bills of exchange and all disputes arising between the parties, is Remscheid if our contractual partner is a registered trader. However, we have the right to file claims against our contractual partner before any other competent court, as per section 12 ff. German Code of Civil Procedure (ZPO).
2. The business relationship between us and our contractual partner shall be governed exclusively by the appliance law in the Federal Republic of Germany, excluding international conventions regarding the uniform sale of goods.