

GENERAL TERMS AND CONDITIONS

Stand 2019

Validity of the conditions

The Seller's deliveries, services and offers are made exclusively on the basis of these terms and conditions. These shall therefore also apply to all future business relations, even if they are not expressly agreed again. These terms and conditions shall be deemed accepted at the latest upon receipt of the goods or services. Counter-confirmations of the buyer with reference to his business or purchasing conditions are hereby expressly contradicted.

Deviations from these terms and conditions are only effective if the seller confirms them in writing.

Offer and conclusion of contract

Offers are subject to confirmation and non-binding. Declarations of acceptance and all orders must be confirmed in writing or by telex in order to be legally effective. In the case of immediate delivery, the invoice shall also be regarded as confirmation. Dimensions, weights, illustrations or other performance data are only binding if they have been expressly agreed in writing. For collection or call-off orders, the buyer is obliged to accept the full amount of the quantity stated in the order. Excess or short deliveries of up to 10% for printed articles cannot be objected to. The quantity delivered shall be invoiced.

Prices

All former pricelists are invalid. Unless otherwise stated, the Seller shall be bound by the prices contained in its quotations for 30 days from the date thereof. In the event of a new introduction or increase in taxes, the Seller shall also be entitled to pass them on within the 30-day period. The prices quoted in the Seller's order confirmation plus the applicable statutory value added tax shall be decisive. The prices are based on the cost factors valid at the time of the order confirmation, in particular raw material prices, wages, taxes, freight charges and the like. If these change in the period between conclusion of the contract and delivery, we shall be entitled to adjust our prices in accordance with the cost factors applicable at the time of delivery. Unless otherwise agreed, prices are quoted ex warehouse Albershausen, including normal packaging. Deliveries in arrears shall be made with calculation of the freight costs. The buyer carries the forwarding expenses.

Delays in delivery

The Seller shall not be responsible for delays in delivery and performance due to force majeure and due to events which make delivery significantly more difficult or impossible for the Seller – including subsequent difficulties in procuring materials, operational disruptions, strikes, lockouts, shortages of personnel, lack of means of transport, official orders, etc. – even if they occur at the Seller's suppliers or their sub-suppliers, even if binding deadlines and dates have been agreed. They entitle the seller to postpone the delivery or service for the duration of the hindrance plus a reasonable start-up period or to withdraw from the contract in whole or in part because of the part still to be fulfilled. If the hindrance lasts longer than three months, the buyer is entitled to withdraw from the contract with regard to the part not yet fulfilled after setting a reasonable grace period. The Seller shall be entitled to make partial deliveries and render partial services at any time. If the seller is responsible for non-compliance with bindingly agreed deadlines and dates, or is in default, the buyer can only assert warranty claims due to default if he has previously set a reasonable grace period of at least 14 days. The assertion of a damage caused by delay exceeding 5% of the invoice value is excluded.

Transfer of Risk

The risk shall pass to the buyer as soon as the consignment has been handed over to the person carrying out the transport or has left the seller's warehouse for the purpose of dispatch. If shipment becomes impossible through no fault of the Seller, the risk shall pass to the Buyer upon notification that the goods are ready for shipment. Even if carriage paid delivery has been agreed, shipment of the goods shall always be at the risk of the Buyer or the recipient. Insurance shall only be taken out at the express request and expense of the purchaser or recipient.

Warranty

The Seller warrants that his own products are free from manufacturing and material defects. The statutory warranty obligation begins on the date of delivery. If the Seller's storage instructions are not followed or if the products are otherwise stored improperly, any warranty shall lapse. The Buyer must notify the Seller in writing of any defects immediately, but at the latest within one week of receipt of the delivery item. Defects which cannot be discovered within this period, even after careful examination, must be reported to the seller in writing immediately after discovery. In the event of a justified qualitative complaint, a replacement delivery will be made free of charge. If the product is no longer available, the buyer may, at his discretion, demand a reduction in payment or cancellation of the contract. The buyer shall also be entitled to these rights if the replacement delivery already made is also defective. Warranty claims against the seller shall only be due to the direct buyer and are not transferable. The above paragraphs contain the final warranty for the seller's own products and exclude other warranty claims of any kind. This does not apply to claims for damages from property assurances which are intended to protect the buyer against the risk of consequential damage caused by a defect.

Complaint handling of electrical appliances

If products are sent in for inspection, a processing fee of € 40,- will be charged, provided that a) no repair order is released b) it is not a warranty processing c) it is not a quality defect within the warranty period/Repairs (outside a warranty regulation) below a net order value of € 100,- will be carried out without presentation of a cost estimate. Damage due to handling errors, misuse, etc. ... will cause the guarantee to expire.

Return of goods

We reserve the right to deduct a restocking fee of an appropriate amount (but at least 10% of the net value of the goods). The return of food is excluded in principle. Returns can only be made after consultation with us by telephone. We can only take back undamaged original packaging. Please pay attention to careful packaging of the goods.

Retention of title

Until all claims (including all balance claims from current accounts) to which the seller is entitled against the buyer for any legal reason now or in the future have been met, the seller shall be granted the following securities, which he shall release on request at his discretion, insofar as their value exceeds the claim by more than 20% on a sustained basis. The goods shall remain the property of the seller. Processing or transformation shall always be carried out for the seller as manufacturer, but without any obligation on his part. If the co-ownership of the seller expires due to combination, it is hereby agreed that the co-ownership of the buyer in the uniform item shall pass to the seller in proportion to the value (invoice value). The Buyer shall keep the Seller's co-ownership in safe custody free of charge. Goods to which the seller is entitled to co-ownership shall hereinafter be referred to as reserved goods. The buyer shall be entitled to process and sell the reserved goods in the ordinary course of business as long as he is not in default. Garnishments and transfers by way of security are not permitted. The Buyer hereby assigns to the Seller by way of security all claims arising from the resale or any other legal reason (insurance, tortious act) in respect of the reserved goods. The Seller revocably authorises the Buyer to collect the claims assigned to the Seller for the Seller's account in his own name. This authorisation to collect can only be revoked if the purchaser does not properly meet his payment obligations. In the event of third parties accessing the reserved goods, the purchaser will point out the ownership of the seller and inform him immediately. In the event of breach of contract by the Buyer – in particular default in payment – the Seller shall be entitled to take back the reserved goods or, if applicable, to demand assignment of the Buyer's claims for surrender against third parties. The repossession or attachment of the reserved goods by the seller does not constitute a withdrawal from the contract, unless the Consumer Credit Act applies. In this case, the buyer is also obliged to notify the third-party debtors of the assignment and to inform the seller immediately of the names and addresses of the third-party debtors as well as the existing claim against them.

Payment

Payment shall not be deemed to have been made until the Seller has the amount at his disposal. Payments by bill of exchange require the express consent of the Seller. Discounts shall not be granted for payments by bill of exchange, all expenses and fees shall be borne by the customer. If the buyer is in default, the seller is entitled to charge interest of 3% above the central bank discount, but at least 10% plus the statutory value-added tax, from the relevant point in time onwards. If the buyer does not meet his payment obligations, in particular if he does not honour a cheque or stops his payments, or if the seller becomes aware of other circumstances which call the creditworthiness of the buyer into question, the seller is entitled to make the entire remaining debt due, even if he has accepted cheques. The buyer shall only be entitled to set-off, retention or reduction, even if notices of defects or counterclaims are asserted, if the counterclaims have been legally established or are undisputed. Payments are to be made exclusively to the seller directly. If payments are made to representatives or agents of the seller, these shall only have a debt-discharging effect if a written power of collection of the seller or the receipt issued by the seller is presented.

Product changes

The seller reserves the right to make changes to form, recipes and packaging at any time.

Limitation of liability

Claims for damages from impossibility of performance, from positive breach of contract, from culpa in contrahendo and from tort are excluded both against the seller and against his vicarious agents, unless intentional or grossly negligent action is present.

Right of withdrawal

The seller is entitled to withdraw from not yet fully fulfilled contracts by written declaration to the buyer without setting a deadline if a court composition proceeding or the opening of bankruptcy proceedings against the assets of the buyer has been applied for, the seller is also entitled to a right of withdrawal according to paragraph 1 if the buyer does not meet his payment obligations (see retention of title, point 6) and a grace period of 10 days has elapsed unsuccessfully.

Applicable law

The law of the Federal Republic of Germany shall apply to the terms and conditions and the entire legal relationship between seller and buyer. The applicability of the Hague Uniform Law on the International Sale of Goods is expressly excluded.

Place of Performance and Jurisdiction

The place of performance for both parties shall be Göppingen, Germany. For all present and future claims arising from the business relationship with fully qualified merchants, including claims based on bills of exchange and cheques, the exclusive place of jurisdiction shall be the registered office of the seller. The same place of jurisdiction shall apply if the buyer has no general place of jurisdiction in Germany.

Severability clause

The invalidity of individual provisions shall not affect the validity of the remaining provisions of these Terms and Conditions. Ineffective provisions shall be replaced by provisions that come as close as possible to economic success.