

Delivery and payment conditions

I. Time for delivery

1. The time for delivery begins with the sending of the order confirmation, but not prior to the furnishing of the documents, permits or releases by the orderer, and prior to the receipt of an agreed upon initial payment.
2. The time of delivery is considered as met when the readiness for shipment has been announced prior to its expiration or the object to be delivered has left the factory.
3. The time of delivery is extended in the case of measures in the context of labour disputes, especially strikes and lockouts, as well as in the event of unforeseen obstacles beyond our control, e.g. disturbances of operations, delays of the delivery of significant materials, insofar as such obstacles can be documented as having a considerable influence on the delivery of the object. This also applies when the circumstances occur with sub-suppliers. The time of delivery extends in accordance with the duration of these measures and obstacles. We are also not responsible for the previously described circumstances when they arise during an already existing delay. We will report the start and end of obstacles of this kind to the orderer in important cases as soon as possible.
4. Partial deliveries are permitted within the given times of delivery insofar as no disadvantages for usage result from this.

II. Scope of delivery/Specifications of the orderer

The scope of delivery is defined by our written order confirmation or delivery note. Insofar as drawings, measurements and/or samples have been provided by the orderer, these are decisive for the order. We are not obligated to check the specifications or to point out any errors, even if these are considered obvious.

III. Cancellation costs

If the orderer withdraws an issued order in an unauthorised manner, we can, without disadvantage for us, demand the possibility of asserting a claim for greater actual damages, 10% of the sale price for the costs resulting from the processing of the order and for lost earnings. The orderer has the obligation to document lower damages.

IV. Packaging and shipping

Packaging becomes the property of the orderer and is charged for by us. Shipping and packaging costs are invoiced separately. The choice of shipping method is at our discretion.

V. Acceptance and transfer of perils

1. The orderer is obligated to accept the object of delivery. In the absence of a deviating agreement (delivery by us), the transfer takes place in Kummerfeld. The obligations of §§ 377 and 378 of the German Commercial Code apply, with the stipulation that the orderer is obligated to report in writing all obvious defects, false quantities and false deliveries within five work days of delivery, and in any case prior to installation. Transport damage is to be reported to the seller in writing without delay.
2. The orderer is obligated to accept the object of delivery within a period of five work days, unless he is temporarily prevented from acceptance through no fault of his own. If the orderer delays the acceptance of the object of purchase longer than 14 days following the receipt of the notification of readiness to deliver, either intentionally or due to gross negligence, we are authorised, after the setting of a subsequent term of another fourteen days, to withdraw from the contract or to demand compensation for damages due to non-fulfilment. The setting of a subsequent term is not required when the orderer seriously or finally refuses acceptance or is obviously also not capable of payment of the purchase price within this period of time.
3. The peril is transferred to the orderer with the acceptance of the object of delivery. If the orderer declares his refusal to accept the object of delivery, the peril of an accidental perishing or a deterioration of performance of the object of delivery is transferred to the orderer at the point in time of the refusal.

VI. Warranty

1. We assume liability for defects of the objects of delivery in the following manner: a) During a period of six months following the acceptance of the object of delivery, the orderer has a right to the rectification of defects. If we are unable to rectify an error subject to our warranty obligation or if further attempts at the rectification of defects are unacceptable for the orderer, the orderer can demand redhibitory action (rescission of the contract) or abatement (reduction of remuneration) in lieu of rectification of defects. b) Naturally occurring wear is in any case excluded from the warranty.
2. Due to additional claims and rights, we assume liability in cases of intent and gross negligence. Liability is otherwise excluded.

VII. Retention of title

1. We retain ownership of the objects of delivery until final payment.
2. In the event of behaviour contrary to contract on the part of the orderer, especially in cases of default of payment, we are authorised to recover following a dunning letter and the orderer is obligated to return.
3. The assertion of the retention of title and the seizure of the objects of delivery by us do not apply as a withdrawal from the contract insofar as we do not expressly declare this in writing.

4. The orderer is authorised to resell the objects of delivery in the regular course of business; but already now abdicates all claims to us to the amount of the purchase price agreed upon between us and the orderer (including VAT) that occur for the orderer as a result of the resale, and this independent of whether the objects of delivery are resold without or following processing. The orderer is authorised to collect these claims following abdication. Our authority to collect the claims ourselves remains unaffected by this; however, we pledge not to collect the claims as long as the orderer meets his payment obligations correctly and does not default on payment. However, if this is the case, we can demand that the orderer announce the abdicated claims and their debtors, provide all information necessary for collection, make the related documents available and inform the debtors (third parties) of the abdication.

5. The processing or alteration of the products by the orderer is always carried out on our behalf. If the objects of delivery are processed with other objects not belonging to us, we acquire partial ownership of the new object to the value of the objects of delivery in relation to the other processed objects at the point in time of processing.

6. The orderer may neither hypothecate nor assign the objects of delivery as collateral. In the case of seizures, confiscation or other acts of disposal by third parties, the orderer must inform us of this without delay and make available to us all information and documents necessary to protect our rights. Executory officers and third parties must be informed of our ownership.

7. Upon request of the orderer, we pledge to release the securities due to us up to the value of the claims to be ensured, insofar as these have not already been settled, when they do not exceed these by more than 20%.

VIII. Tort liability

Claims for compensation for damages resulting from tort, positive breach of contract and fault during contract negotiations are excluded unless the damage was caused intentionally or through gross negligence. This also applies for the activities of our vicarious agents and auxiliary persons.

IX. Payment terms

1. The purchase price and the remuneration for auxiliary services are due for payment at the time of the transfer of the object of delivery.
2. Cheques and bills of exchange only apply as payment once they have been discharged. The acceptance of bills of exchange always requires a written agreement with us in advance. In the case of bills of exchange being accepted, bank discount and collection costs will be charged. These are to be paid immediately in cash.
3. The seller is authorised to charge the buyer, who is the merchant in the sense of the German Commercial Code, and the buyer who is not a merchant, interest on arrears from the date of the default to the amount of the credit costs he himself must pay, but at least amounting to five of one hundred above the respective bank rate (presently: base lending rate) of the German Federal Bank; the assertion of claims for additional compensation for damages remains unaffected by this.
4. The retention of payments due to counterclaims of the orderer not recognised by us or not legally confirmed is not permitted. The same applies for offsetting with such.
5. The buyer is in default when he fails to make payments due within 30 days of receiving an invoice or equally valid demand for payment. The seller reserves the right to initiate the default at an earlier point of time through the issuing of a dunning letter arriving after payment comes due. In divergence from items 1 and 2, the buyer is then in default when an agreement has been reached that the purchase price should be paid at a certain point in time and he has not paid by this point in time at the latest.

X. Place of performance and court of jurisdiction

1. The place of performance is Kummerfeld.
2. In the event of disputes arising from the contractual relationship, the suit is to be filed at the court responsible for our head office. We are also authorised to file suit at the head office of the orderer.
3. Only German law applies, except for laws governing the international purchase of chattels, even when the orderer has its head office abroad.

XI. Miscellaneous

1. Transfers of the rights and obligations of the orderer resulting from the contract closed with us require our written permission in order to be effective.
2. If a provision should be or become void; the validity of the other provisions remains unaffected by this.

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