

TERMS OF SALE, PAYMENT AND DELIVERY

 **FINGER**
Befestigungstechnik



Terms of sale, payment and delivery

I. General Commitment

1. Our deliveries, services and offers are exclusively based on these terms of sale, payment and delivery (General Business Terms). Deviating terms, specifically the buyer's purchasing terms are hereby opposed.

2. If the general terms and conditions are not received by the buyer or if they were not submitted to him on another occasion, they will be applied within the scope of an ongoing business relationship among business people, if he knew or should have known these from an earlier business relationship and also if we have never expressly mentioned their inclusion in an individual case.

II. Contract and payment terms

1. Settlement

a) Settlements and agreements are only binding via a written confirmation and exclusively under these sales terms. In the event of changing production and raw material costs, we are entitled to charge the price valid on the day of the delivery.

b) Our offers are provisional and non-binding; they only include invitations to submit an offer. Proposal statements and all of the buyer's orders require a written or telex confirmation from us for their legal validity. The scheduled fulfillment of the order is valid as an acceptance of the order. The invoice then applies as order confirmation.

c) Information contained in prospectuses, advertising catalogs, order forms and similar statements of an advertising content, in particular drawings, illustrations, dimensions, weights or other performance data contained therein are only binding if formally agreed in writing.

d) If the confirmation letter of the parties, which contain different provisions, cross the seller's conditions will apply.

2. Prices.

a) Unless otherwise formally agreed, our prices are ex works, excluding packaging. We are entitled to an appropriate adjustment for prices, which are obviously based on a miscalculation.

b) All wages and salaries, freight and customs duties etc. that become indirectly more expensive after the business transaction due to the new federal and state laws will be the buyer's responsibility. Alternatively, we are entitled to a corresponding reduction of granted discount rates in the presence of impending price increases, if the prices are not increased.

3. Payment terms

- a) Unless otherwise agreed, all payments must be made in cash, less 2% discount within 8 days after the invoice date or net within 30 days. Offsetting is only permitted with claims recognized by us or legally determined by us. The payment shall be deemed as completed, when the amount is unconditionally at our disposal.
- b) Check and draft payments require our prior written consent. Checks and drafts are only accepted by us for fulfillment and only under the conditions that they are bankable. Banking, discount and collection expenses as well as taxes incurred shall be borne by the buyer. Credits on drafts or checks are always subject to the receipt, and without prejudice to an earlier due date of the purchase price in the event of the buyer's default; they are based on the value date on which the counter-value is available to us.
- c) From the starting date of the buyer's default, we are entitled to demand interest at the rate of 8 percentage points above the base rate as flat rate damage claim. The right to additional damages, including higher interest penalties, remains reserved. The proof of lower damages remains the right of the buyer.
- d) Failure to comply with the payment terms or conditions that will be known us at the respective conclusion, and are suitable to reduce the buyer's credit worthiness will result in the immediate due date of all of our claims, irrespective of the duration of any drafts. It also entitles us to only execute any outstanding deliveries only against advance payment or securities, and withdraw from the fulfillment after a reasonable period or demand damages due to non-fulfillment, regardless of the right of withdrawal of the goods delivered under the retention of title at the expense of the buyer.
- e) We are entitled to bill payments to the buyer's older debts, despite the buyer's deviating provisions, whereby initially the costs, then the interest and then the principal demand are charged. The buyer will be informed of this.
- f) The buyer may only retain payments due to defects or other objections in the amount corresponding with the service interruption. An expert designated by the Chamber of Commerce and Industry at our headquarters will decide on the scope in case of disputes. The buyer and us will divide the costs for engaging the expert equally.

4. Retention of title.

- a) The following securities will be granted to us until all claims (including all claims from the current account) to which we are entitled to based on any legal grounds against the buyer from the business relationship, which will be released to us according to our choice, if and insofar as their value exceeds our total claim from the business relationship by more than 20%.
- b) The goods remain our property. Processing or transformation is always done for us as the manufacturer, but without any obligation to us. Should our proprietary rights cease by virtue of amalgamation, it is already agreed that the buyer's property rights of the single item is transferred proportionately (invoice value) to us. The buyer will store our (joint) property free of charge. Goods in which we have (co-) ownership shall be referred to as conditional goods hereinafter. incurred was significantly less than the above.
- c) The buyer has the right to process and sell the retained goods in proper business transactions and, provided he is not in arrears. Pledges or security transfers are not permitted. The buyer is already transferring any demands resulting from the resale or any other legal reason concerning the retained goods (including balance claims of the current account) in their entirety to us as a precaution. We are already accepting this transfer. We are authorizing the buyer revocably to collect the demands assigned to us for his invoice in his own name.

This direct debit authorization can only be recalled, if the buyer does not meet his payment obligations properly.

d) The buyer will point out our property in the event of third-party access to the retained goods, in particular seizures, and inform us immediately so that we can enforce our property rights. If the third party is unable to reimburse us the judicial or out of court costs within this context, the buyer shall be liable for these.

e) In the event that the buyer acts contrary to the contract - especially concerning late payment we are entitled to take back the retained goods or, where appropriate, demand the buyer's surrender claims against third parties, if necessary. The contract is not rescinded by the return or the seizure of the retained goods.

5. Security rights. The buyer's absolute credit worthiness is a requirement for the delivery. If we receive information after signing the contract, which make the amount resulting from the contract appear as not completely totally safe, or if the facts show that cast doubts in this regard, or if facts show a deterioration of the assets, cessation of payments, fiscal oversight, bankruptcy, business dissolution, transition, etc., or if the buyer mortgages or orders inventories, accounts receivable or purchased goods as security for other creditors or overdue invoices are not paid in spite of a reminder, we will be entitled to demand an advance payment or security from the contract or demand damage compensation for non-fulfillment or cash payment, unless another type of payment than cash payment is agreed.

III. Delivery Terms

1. Delivery Time.

a) Delivery dates or periods, which can be agreed to binding or non-binding, must be in writing to be effective. Partial deliveries are permitted to a reasonable extent.

b) The delivery period begins on the date of our order confirmation, but not before a complete clarification of all implementation details. The delivery period is considered to be adhered to when the dispatch readiness is announced, if the shipment is not possible through no fault of our own or that of the supplier plant or that of the sub-contractor. Minor violations of the delivery date are irrelevant. Claims can therefore not be applied, unless fixed-date transactions have been agreed in writing.

c) The agreed delivery period is extended - regardless of our rights from the buyer's delay - by the period, in which the buyer is in default of his obligations from this or another conclusion. The delivery and/or service period is extended for delivery and service delays, which are not our responsibility according to point III. 2 - even if the binding agreed deadlines and dates within a delay - by the period in which the service cannot be provided by us, including a reasonable starting time. In these cases, we are entitled to withdraw from the contract completely or in part in reference to the unfulfilled part.

d) The buyer cannot demand compensation for damages caused by the extension of the delivery date or arising from our release from our liability.

2. Force Majeure, Delays in Delivery.

a) We are not responsible for events that develop by circumstances which are beyond our influence. These include the occurrence of a Force Majeure, in particular, strikes, lockouts, mobilization, administrative orders, involuntary delays during operations, raw material shortages, disruptions during the operation and transportation. This also applies, if these events occur with our suppliers or their sub-contractors.

- b) If the delivery or service difficulty exists longer than three months, the purchaser has the right to withdraw from the contract regarding the unfulfilled part after a reasonable notice. The buyer must explain within a reasonable time at our request, if he continues to insist on the delivery or withdraws from the contract due to the delay.
- c) If we do not adhere to the delivery date or 2. the service date for another reason that that specified in Item III.
2. a), the buyer may not apply the resulting rights until after a reasonable grace period of at least 14 days.
- d) We are only liable in terms of a timely delivery at our own responsibility and that of our sub-contractors. We are not responsible for our supplier's faults, since these are not our agents. However, we are obliged to transfer any claims against our subcontractors to the buyer upon request.
- f) If the buyer does not accept the ordered goods on the agreed delivery date or if he refuses to accept the goods, he is liable to compensate us for our damages. The damage compensation is 25% of the net sales value of the goods. The buyer is responsible to demonstrate the development of minor damages.
3. Risk Transfer and Shipment. a) The reimbursement risk passes to the buyer with the result that he is responsible for the payment of the purchase price as soon as the goods are transferred to the person performing the transport has left our warehouse for shipping. If the shipment becomes impossible through no fault of our own, the risk is transferred to the buyer with the message of the readiness to ship.
- b) FOB and CIF transactions require a separate agreement.
- c) Dispatch route, method of transportation and protective material, which must be specifically marked as covered and special vehicles, are according to our choice with the exclusion of any exclusions or liabilities. Ready to ship goods must be retrieved immediately, otherwise, we have the right to store these according to our discretion at the buyer's expense and risk, if they cannot be shipped, and bill these as delivered from the factory.
- d) Unless otherwise agreed, the most cost-effective outer packaging will be charged. Crate packaging is credited at 2/3 of the calculated value in good condition for freight-paid shipments.

IV. Warranty and Limitation of Liability

1. Notification of defects.
- a) The buyer must inspect the received goods immediately for quantity and quality. Apply § § 377, 378 of the German Commercial Code, with the proviso that the buyer reports defects within 10 days after receiving the goods at the destination in writing and must list these specifically. Defects, which cannot be discovered within this period even after an immediate inspection, must be reported immediately upon their discovery. If the buyer discovers defects in the goods, he may not dispose of these, i.e. they may not be divided, resold, or further processed until an agreement is reached regarding the settlement of the claim.
- b) In case of justified complaints, we are entitled to define the type of subsequent fulfillment, taking into account the nature of the defect and the legitimate interests of the buyer (including replacement shipments in parts, repairs). The buyer must grant a reasonable period for subsequent fulfillments, however, at least 30 days. The buyer has the right of a reduction or withdraw from the contract, if the subsequent fulfillment fails.
- c) We will accept unprocessed defective goods for replacement shipments. We can replace the minimum value instead.

2. Claims.

a) Claims by the buyer for the purpose of subsequently fulfilling necessary expenses (e.g. transportation, routing, labor and material costs) do not exist to the extent that the expenses increase, because the purchased product was delivered to a location other than the buyer's headquarters or the commercial establishment, unless the delivery complies with the intended use of the product.

b) The warranty does not only include minor deviations of the properties of the delivered goods from the agreed quality, only minor impairments in usefulness, for natural wear and tear or natural wear and defects, which develop after the risk transfer due to faulty or negligent handling by the user (such as unsuitable or improper storage or handling or applications, excessive stress). When delivering large quantities, a material defect is only present, if the defective material equals more than 2% of the delivered quantity.

c) The expenditure that must be verified, which developed during the defect detection, will be charged to the buyer, if an order cannot be completed, because the objected defect is not present during the inspection or if the buyer was not present on the agreed date by his fault.

d) The buyer may not derive any rights regarding the remaining quantity due to a defective partial delivery.

3. Restriction of liability. a) Damage and expense reimbursement claims by the buyer (hereinafter referred to claims for damages), for whatever legal reason, especially due to violations of duties from an obligation and from an unlawful act are ruled out. This does not apply in cases of assuming a guarantee or a procurement risk. This also does not apply, where a mandatory liability is present due to statutory provisions, especially under the Product Liability Act, in cases of gross misconduct, due to injuries to life, body or health, and the violation of essential contractual obligations. However, the claim for damages for the violation of essential contractual obligations is limited to the contractually typical, foreseeable damages, insofar as it does not involve any gross negligence, or a liability for the loss of life, limb or health. This does not include a change in the burden of proof to the buyer's detriment.

b) This rule applies for the buyer accordingly.

V. Place of fulfillment, judicial and legal status, partial invalidity

1. All disputes shall be decided in accordance with the substantive law of the Federal Republic of Germany. The application of uniform laws on the International Sale of Goods and on signing the International Sales Contract of Goods and the CISG is excluded.

2. Location of fulfillment and exclusive jurisdiction for all disputes resulting between the parties is Brilon.

3. If a provision of the General Terms and Conditions or a provision within the scope of other agreements is or becomes invalid, then the validity of all other provisions or agreements will not be affected. The completely or partially invalid provision will be replaced by a provision, the economic success of which will be as close as possible to the invalid provision.