

General sales, delivery and payment terms

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1. Scope of application

1.1. The following provisions shall apply to all of our deliveries and services (including any auxiliary services such as recommendations and advice).

1.2. The customer's general purchase conditions shall be excluded unless accepted by us in writing.

1.3. Our offers shall be non-binding. Delivery contracts and any other agreements (including side letters), as well as any statements by our representatives shall only become legally binding by our written confirmation.

1.4. However, the customer remains bound to his order given in writing, orally or by telephone, even if our confirmation is not yet present.

1.5. Any business mail printed by data processing systems (e.g. order confirmations, in-voice, bank statements, reminders of payment) shall be binding even without a signature.

2. Prices

2.1. Our prices shall be exclusive of packaging and VAT at the respective statutory rate. They shall apply ex works or ex storage Steinheim.

2.2. Where any changes are made to the pricing basis until the delivery day, we reserve a respective adjustment of our prices. This shall only apply for delivery deadlines of more than four months and for price adjustments of up to 10%. For any higher rates, a new agreement of prices shall be required. Where such agreement is not made, we shall have the right to withdraw from the contract by written notice within 14 days.

2.3. For orders for which no prices were agreed on, our prices as valid on the date of delivery shall apply.

2.4. Any confirmed prices shall apply only in case of acceptance of the amounts agreed on.

2.5. Partial deliveries shall be calculated separately where there are no express agreements to the contrary.

3. Delivery

3.1. Delivery shall be unpaid ex works or storage Steinheim to the account of our customer, in case of shipping by railroad to the train station nearest the point of use, in case of shipping by truck to the point of use, not unloaded, where the point of use can be reached by roads accessible for trucks independent of the weather.

3.2. Shipping route, transport and packaging or any other securities are left to our choice. The danger of transport shall always be assumed by the customer. We shall have the right but not the duty to insure deliveries in the name and to the account of the customer.

3.3. Any damage or loss must be documented by the freight carrier on the letter of consignment at once after receipt and claims must be stated there.

3.4. FLEX reserves all rights to the supplied drawings and other product documents without restriction. Supplied drawings and other product documents must not be made accessible to third parties without the prior consent of FLEX and must be immediately released to FLEX on request if a contractual relationship with FLEX is not successful.

4. Time of delivery and delivery obstacles

4.1. Delivery times stated are not binding. Delivery deadlines shall begin at the date of our order confirmation, but not before all details for performance

are determined and any other prerequisites to be provided by the customer for the proper performance of the contract are cleared up. This applies mutatis mutandis for delivery deadlines. Advance deliveries and partial deliveries shall be permissible. The delivery date shall be the day of dispatch ex works or ex storage Steinheim.

4.2. Where the customer violates his obligations to cooperate (e.g. by not scheduling in a timely manner or refusal of acceptance), we shall have the right to take the required measures ourselves after a grace period has passed without any results, and to deliver the goods or to withdraw from the part of the delivery contract not yet performed. This shall not affect our right to claim damages due to violation of obligations or damages instead of performance.

4.3. Any delivery objects not produced by ourselves are subject of timely and correct delivery to us unless the delayed or wrong or missing delivery is due to our fault.

4.4. Any occurrences of force majeure shall extend the delivery times reasonably and shall give us the right to withdraw from the contract wholly or in part. Fire, war, strike, lock-out, interruption of operations and any other unexpected circumstances not due to our fault that make delivery much more difficult or impossible shall correspond to force majeure. This shall also apply if the circumstances named arise during delay or for a sub-contractor. The customer shall not have any right of rescission or right to claim damages in these cases.

4.5. If the delivery is not accepted, is not on time or not complete, we are entitled to store or dispatch the goods at the cost of the customer. In this case the risk shall pass to the customer in accordance with § 5.

5. Passing of risk

Delivery shall be at the customer's risk. The danger shall pass to the customer when the goods delivered ex works or ex Steinheim are handed over, even when delivery free of shipping charge was agreed on for any single case.

6. Payment conditions

6.1. Our invoices shall be payable within 30 days of the date of the invoice without any discount. Payments shall only be deemed made as of the day on which we can dispose of the amount.

6.2. Where there are no earlier open invoices, we shall grant a 2% discount of the net sales price of the goods for payments made within 14 days of the date of the invoice (excluding costs for packaging, freight, insurance and so on).

6.3. Drafts and checks are only accepted after express agreement and only for payment and subject to our acceptance in each individual case. In case of payment by draft, discounts shall not apply. Bank discount and any other expenses shall be assumed by the customer and paid immediately.

6.4. Any payments shall also be applied to our oldest claims without consideration of any deviating stipulations of the customer.

6.5. In case of delayed payment, we shall charge default interest at the statutory rate. Any other damages claims shall not be excluded.

6.6. In case of delayed payment, non-clearing of checks and drafts, ceasing payment, initiation of any procedure for settlement, non-compliance with the payment conditions or presence of circumstances suitable for decreasing the creditworthiness of the customer, all of our receivables – also in case of respite – shall be payable immediately. We shall also have the right to execute any pending deliveries only for advance payment in cash or to withdraw from the contract after giving a reasonable grace period and to claim damages instead of performance.

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6.7 The customer may only set off against claims not disputed or legally determined.

6.8 Our representatives are not entitled to accept money without special written authorisation.

7. Retention of title

7.1 Our deliveries shall only be performed under retention of title (goods subject to retained ownership). Title shall only pass to the customer after he has paid all of his liabilities from our deliveries (including any possible service charges). In case of running accounts, the retention of title is deemed a security for our payment balance requests, even where payments are made for specially indicated claims.

7.2 The customer may only sell the goods in his usual scope of business and only sell or use them when the recipient has not excluded the assignment of claims from further sale or further use. The customer is obliged to ensure that his recipient gives his agreement reserved for assignment to us in the required form. Chattel mortgage and pledging of the goods subject to retained ownership shall not be permissible.

7.3 The customer shall inform us without delay of any garnishment, threatening garnishment, or any other prejudice to our right of ownership through any third parties, and in particular of the presence of a blanket assignment and factoring contracts, and to confirm our right of ownership in writing both to us and to any third parties. In case of garnishment, he shall send us a copy of the garnishment document

7.4 Where the customer is in delay with payment, we shall have the right to demand that the goods subject to retained ownership are handed over and to repossess the goods directly or through authorised persons, no matter where the goods are located. The customer shall be obliged to hand over the goods subject to retained ownership to us and to provide us with the information required for asserting our rights. The demand of handing over is not deemed withdrawal from the contract. The same shall apply for accepting return of the goods subject to retained ownership.

7.5 For ensuring all of our claims from the business relationship and even those that will arise in future, the customer even now assigns all claims (including from current accounts) and auxiliary rights arising from selling on and otherwise using the goods subject to retained ownership to us

7.6 Where our goods subject to retained ownership are sold or otherwise used – independently of their state – together with the sale or other use of objects subject to the rights of any third parties and/or in connection with services being rendered by any third parties, the advance assignment shall be limited to the invoice value of our invoices.

7.7 The customer shall have the right to collect the claims assigned to us. In case of delayed payment, ceasing of payment, applying for or initiation of insolvency or out-of-court-settlement proceedings or any other dwindling of asset of the customer, we shall have the right to rescind the authorisation to collect. On request, the customer shall disclose all assigned claims and the respective debtors, give all information required for collection, hand over the respective documentation and to inform the debtor of the assignment. We shall also have the right to inform the customer's debtors of the assignment and to demand payment to us.

7.8 Where the value that can be realised from the securities due to us according to the above provisions exceeds the value of our claims by more than 10 %, we shall be obliged to release any exceeding securities at our discretion on the request of the customer.

8. Returned goods

8.1 Acceptance of returned goods from our deliveries shall be excluded where not expressly agreed in writing.

8.2 In case of acceptance of returned goods, we shall charge a processing fee of 20 % of the net sales price, and no less than 50.00 EUR. Where there is any higher expense in any single case, we reserve the right to charge it.

9. Claims due to defects

9.1 The delivery item is free from defects if it corresponds with the product description at the time of the transfer of risk (§ 5) – or if there is no product description – with the respective state-of-the-art. Any changes to the design and/or execution that do not prejudice the function or value of the delivered object are reserved and shall not entitle to notice of defects. Defects that do not or not essentially affect value and/or suitability for use shall not be subject to claims due to defects.

9.2 Guarantees for the composition and durability of the delivered object shall only be deemed accepted where we have expressly declared the guarantee such in writing. We shall only be liable for any public statements, in particular those from advertisements where we have initiated them. Claims due to defects may only be asserted due to such statement if this statement has actually influenced the customer's decision to buy. Guarantees given by our suppliers in guarantee statements, in relevant advertisements or other product documentation are not initiated by us. They shall only bind the supplier who declares this acceptance of guarantee.

9.3 Notices of defects must be served immediately and shall be excluded if we have not received them in writing within two weeks following receipt of the delivery. This exclusion period shall not apply to defects which, despite very careful checks, could not be detected within the period. We must be informed immediately in writing of such defects, however no later than two weeks after they were discovered.

9.4 Where the delivered object is defective or does not correspond to any guaranteed condition, we shall remove the defect within a reasonable period of time and free of charge at our discretion either by improvement or by delivery of an object free from defects (supplementary performance). The customer shall grant us or our representative time and opportunity for this.

9.5 For the purpose of the supplementary performance the customer must bear any required expenses which are incurred due to the purchased item being brought to a site other than the location of the customer.

9.6 Where subsequent performance fails or is not performed within a grace period given us by the customer, the customer may demand reduction of payment or withdraw from the contract.

9.7 Any damage due to wrong or defective commissioning, treatment, operating or maintenance shall not be subject to claims due to defects.

9.8 Claims due to defects prescribe after twelve months where no longer periods of prescription are stipulated by law.

9.9 The period of prescription shall begin at the date of our delivery (passing of risk).

9.10 In case of damage to life, limb or health and in case of wilful or grossly negligent violation of duties, as well as in case of malicious concealment of a defect or of assumption of a guarantee of quality, the statutory prescription periods shall apply.

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9.11 Notwithstanding the above prescription periods, the service life of any wear parts shall result from their wear in case of intended use (usual service life). This may be much shorter than the period named in section 9.7. Where replacement of wear parts after the end of its usual service life is required, this shall not result in any claims due to defect.

9.12 Section 10 shall apply for any other damages claims. Any further claims of the customer due to defects shall be excluded.

10. Liability

10.1 We shall only be liable for damages claims and reimbursement of expenses (§ 284 BGB) due to violation of contractual or extra-contractual obligations (e.g. due to delay or impermissible action) in case of

- wilful intent or gross negligence,
- culpable violation of life, limb or health,
- malicious concealment of a defect or assumption of a guarantee of quality or
- according to the product liability act for personal injury or material damage to privately used objects.

10.2 Furthermore, we shall be liable due to violation of essential contractual obligations even in the case of simple negligence. In this case, however, our liability shall be limited to the damage usual to the contract that could be expected at the time the contract was entered into.

10.3 The preceding provisions shall apply in the same scope for our subcontractors and vicarious agents.

10.4 The preceding provisions do not include any change of the burden of proof to the disadvantage of the customer.

11. Applicable law

All legal relationships between us and the customer shall be subject to German law exclusively, under exclusion of the conflicts of laws provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).

12. Jurisdiction

Place of jurisdiction shall be Steinheim if the customer is a businessman. However, we shall have the right to apply to the court responsible for the seat of the customer.

13. Partial invalidity

Where any provision of these general sales, delivery and payment conditions or any provision in the scope of other agreements between us and the customer is or becomes invalid, this shall not affect the validity of any other provision or agreement.

We inform our customers that we will process their personal information – only for business purposes – using electronic data processing and according to the provisions of the Federal Data Privacy Act.

In the scope of order processing, certain information (name, address, invoice data and, where applicable, information on any non-contractual payment procedure by the customer) may be transmitted to credit agencies.