



# Terms of Business

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## I. Scope, General

- (1) All offers, confirmations, deliveries and services to or on behalf of traders, legal entities under public law and special assets under public law are exclusively based on our Terms of Business set forth below. The delivery and assembly of smoke and heat exhaust systems is additionally governed by our respective Special Conditions. Anterior versions of our Terms shall be rendered ineffective for new contracts. This is also applicable for existing business connections.
- (2) Any deviations from or changes to our Terms of Business shall be subject to our prior written confirmation. In the context of existing business connections, the Terms set forth below are also applicable for future orders if we do not expressly refer to their applicability in each individual case. Any divergent terms that may be applied by the purchaser are also excluded if we do not expressly disagree with them or execute the delivery without reservation, being fully aware of such divergent terms.
- (3) If any provision or parts thereof be held impracticable or invalid, the effectiveness of other provisions shall remain unaffected. For this case, the Parties agree to replace the impracticable or invalid provisions with provisions as similar in economic terms to such invalid provision as may be legally possible. The same applies for any unintended omissions by one of the Parties.

## II. Offer, Order, and Conclusion of the Contract

- (1) Unless expressly limited, our offers are valid for an appropriate period of time and subject to change without notice. The goods are subject to prior sale.
- (2) Unless both Parties sign a document to that effect, contracts require our written confirmation in order to come into effect. Any changes, amendments, subsidiary agreements, in particular warrants and guarantees, are subject to our express written prior consent in order to become effective. This also applies for business transactions submitted to us by the purchaser through mediation of sales agents acting on our behalf. Provided our customers' order can be classified as an offer within the meaning of § 145 BGB (~ German Civil Code), the order can be accepted with a fortnight.
- (3) The purchaser shall review the contents of written order confirmations and shall notify us of any inconsistencies without undue delay.
- (4) Information on the subject of the delivery or service as well as their specifications do not represent warranted characteristics, but are mere descriptions.

## III. Prices

- (1) Unless expressly stated otherwise, our prices are calculated in euros and as a matter of principle refer to the net value of the goods quoted ex works (excluding transport packaging, transport costs, insurance, customs duties and taxes). The current VAT rate will be indicated separately and added to the net value.
- (2) We shall be entitled to pass on the charges for increased labour expenses as well as our cost price for materials and external services in proportion to the increase in such charges since the time the contract was concluded, provided a period of at least 4 months has passed between the conclusion of the contract and the delivery date (including delays which we are not accountable for). Unless expressly otherwise agreed, this provision shall also be applicable for master agreements and call-off purchase agreements. The delivery time within this meaning is deemed to be the time at which the goods are/can be provided for delivery/collection.
- (3) We reserve the right to raise a surcharge for quantities below minimum for orders of individual locks and fittings, especially for products with particular measurements or specifications.
- (4) To the extent that we grant discounts on our catalogue prices, no legal right shall be constituted as to the granting and amount of discounts. This shall also apply for the nonrecurring granting of special or quantity discounts or special prices. Prior to concluding the contract, we reserve the right to change our prices and discount policy at any time, in line with the cost situation. No discounts are granted for orders below € 200 in order to cover – at least partially – our handling costs.

## IV. Changes, Special Parts

- (1) Technically required changes and deviations from the specifications of an order are admissible on our part, provided the quality remains unaffected and such changes and deviations are reasonable with regard to the purchaser's justified concerns.
- (2) Any tools, equipment, moulds, models etc. manufactured for the production of special parts will always remain our property and cannot be released, even if the purchaser paid part of the production costs. We are under no obligation to accept follow-up orders.

## V. Delivery and Delays in Delivery

- (1) Unless otherwise agreed, our delivery terms are ex works.
- (2) Unless expressly stipulated as binding, our delivery terms are approximate dates which we will strive to observe. As soon as we can foresee that goods will not be ready for delivery within the given time period / at the given time, we will notify the purchaser immediately and in writing, indicating the reason for the delay and, if possible, the prospective delivery date. The notification of readiness for dispatch or collection is relevant for adherence to delivery dates, unless the goods have already left the warehouse within the indicated delivery period. We shall be entitled to deliver parts of the order within the delivery time if it can be reasonably expected of the purchaser to accept such deliveries. Each partial delivery constitutes a separate business transaction which can be invoiced separately.
- (3) The beginning of the delivery time indicated by us / the compliance with a fixed delivery date is subject to the clarification of all technical details as well as timely performance of the purchaser's duties. All rights of defence of non-performance are reserved.
- (4) The purchaser shall only have the right of rescission from the contract on grounds of non-performance on our part after a period of grace for provision of the service has expired. Granting a period of grace and rescission from the contract are to be made in writing.
- (5) Should the operation of our or our suppliers' business be disturbed by industrial disputes (strike or lock-out) or due to force majeure, such as natural disasters, war, riots, acts of sabotage, boycott or blockade, accidents, failure of machinery and loading units, interruption of energy supply or government action, or should the

supplier file for insolvency, and should this result in considerable obstruction or even a standstill in production, the delivery terms shall be extended by the duration of the disruption as well as a suitable start-up period. Unless prevented by the type and scope of the disruption, we undertake to notify the purchaser of the disruption, its type and time of occurrence within a period of 7 days following the occurrence of the event.

This period shall be deemed adhered to at the time the notification is dispatched. The same shall be applicable when the disruption has ended. Should the disruption be of a permanent nature, we shall be entitled to withdraw from the contract by written declaration. Otherwise the purchaser shall be obliged to accept the goods, provided this can be reasonably expected and a suitable period of grace has expired without results. In cases of unreasonableness and if the period of grace has expired, the purchaser shall be entitled to withdraw from the contract by written declaration. Any further claims against us shall be excluded in such cases.

- (6) Call-off purchase orders are valid for a maximum of 8 months after date of order confirmation. Following the expiration of this period, we shall be entitled to send any products that have not been called up to the purchaser and invoice them or to invoice for materials kept in our store, plus surcharges for costs and profit.
- (7) In case of delays in call-off purchases, collection or dispatch of goods for reasons within the purchaser's responsibility, we shall be entitled to charge a storage fee amounting to 0.5% of the invoice amount. The storage fee shall be charged one month after the readiness of the goods for dispatch was announced and shall be payable per opened month. The storage fee shall be limited to a maximum of 5% of the net value of the goods, plus VAT.

## VI. Dispatch, Packaging, Transfer of Risk, Insurance

- (1) For consequential losses caused by the transit / carrier such as loss or stealing of a whole consignment, burning of a consignment etc. we assume no liability of penalties with regards to deadlines which may have occurred etc.
- (2) The dispatch shall normally be effected at the purchaser's cost and risk, according to our best judgement with no obligation of cheapest and safest means of transport.
- (3) A charge will be raised for the packaging. Once the shipment has been accepted by the carrier without objections, evidence of appropriate packaging shall be deemed to be provided. The risk of deterioration or accidental loss shall be transferred to the purchaser as soon as the goods have been put at his disposal or have been handed over to the forwarder or carrier, however no later than 7 days following receipt of the notification that the goods are ready for dispatch.
- (4) Transport packaging
  - a) All forwarders provide iron-barred boxes on loan on a swapping basis.
  - b) Cardboard boxes: We exclusively use cardboard boxes that correspond to the latest packaging regulations and have the RESY label. The adhesive tape used to close the boxes is made from paper of the same type, and straps are made of recyclable polypropylene.
  - c) We invoice for transport packing at cost price. Packaging can be returned to us and recycled at no extra cost for us, provided return shipments are sent free domicile. Packaging materials will be recycled into filler materials and can only be accepted when dry and free from third-party boxes or straps. Any boxes not fulfilling these criteria will be rejected.

## VII. Returns

- (1) Returns require our permission and have to be made free of forwarding costs to our works.
- (2) If we are not responsible for the return, we may reduce the credit note up to 30% for the incurred expenses depending on the extant and manner of the return.

## VIII. Terms of Payment

- (1) All invoices are payable within 14 days with a 2 percent cash discount or 30 days net. Invoices shall be deemed settled on receipt of payment at our end. A cash discount is only granted if all invoices due for net payment have been settled. Invoices for assembly and wage labour are payable strictly net within 10 days. Furthermore, we shall be authorized to determine how payments are to be offset, according to §§ 366, 367 BGB (~ German Commercial Act).
- (2) Our sales representatives are not authorized to collect any payments.
- (3) Discounting of drafts is subject to special agreement. Drafts and cheques shall always be discounted in fulfilment.

## IX. Delay in Payment

- (1) On expiration of the date of payment, we shall, without the requirement of prior reminders, charge interest to the amount of the costs we incur for bank loans, however no less than 8% above the applicable base rate. We reserve the right to claim potential further damages.
- (2) All outstanding receivables (including those resulting from bills of exchange) shall become due for payment immediately in cases of delay in payment, pending suspension of payment, or unfavourable credit information on the purchaser (in particular in case of bill protests or compulsory execution).
- (3) Should the aforementioned case occur, we shall be entitled, for cautionary reasons, to retrieve goods that have already been delivered. The purchaser's obligation to pay shall remain unaffected in such cases. The purchaser shall grant us access, for this purpose, to the premises in which the goods are stored and shall surrender the goods. If no delivery has been made, we shall be entitled to produce and deliver goods subject to payment in advance or provision of a security. We shall also be entitled to withdraw from the contract and assert claims for damages.

## X. Material Defects and Liability for Other Claims

- (1) The quality of the goods to be delivered is exclusively based on our technical specifications and the technical specifications agreed upon. No contractual guarantees as to the quality of the goods to be delivered can be deducted from advertising or targeting. If production and delivery of the goods are based on drawings, samples, specifications etc. provided by the purchaser, it shall be the purchaser's sole risk that the goods are suitable for their intended use. The contractual status of the goods to be delivered shall be effective at the time of transfer of risks.

- (2) We exclude liability for material defects occurring due to unsuitable or improper use or handling, incorrect assembly, fair wear and tear or faulty or insufficient maintenance. We further exclude liability for the consequences of improper amendments or repairs by the purchaser or third parties or such changes or repairs as have been made without our consent. The same shall be applicable for defects that represent an insubstantial impairment of the product's value or suitability.
- (3) If a formal acceptance procedure has been agreed upon or if specimen sampling was carried out, claims for such defects are excluded as the purchaser should have recognized and identified in the course of a thorough acceptance procedure or specimen sampling.
- (4) Unless the law calls for extended time periods, in particular for goods whose intended use was for construction of a building and which, in line with that use, have deteriorated the quality of the building, entitlement to damages for defects become time-barred 12 months from the time the goods were delivered to the purchaser or a third party appointed for this purpose by the purchaser.
- (5) Unless expressly stipulated otherwise in writing, we exclude liability for the suitability of the goods offered or delivered by us for any purpose intended by the purchaser other than the general, intended use stipulated by us. It is exclusively incumbent upon the purchaser to test application of the goods for other than the intended use prior to their use.
- (6) To the extent that we offer or deliver locks with the specification "varied locking", this specification does not guarantee that locking might not be repetitive.
- (7) The purchaser shall arrange for inspection of the goods immediately upon receipt, either by himself or by a third party appointed as recipient of the goods by the purchaser, in order to establish that the goods are free of defects, corresponding to the order confirmation, and complete. The delivery or service is deemed accepted if no complaint is received by us within a maximum of 8 days following delivery, in writing or by fax. Should a defect not be recognized in the course of the inspection carried out upon the receipt of the goods, the same deadline of 8 days shall be applicable as from the time the defect is detected.
- (8) Goods rejected by the purchaser (or samples, if possible) are to be kept at our disposal for inspection or to be returned to us on request. If the claims are justified, the purchaser shall be entitled to receive compensation for the costs incurred in connection with returning the goods. Should the purchaser fail to meet his obligations within a reasonable time frame set by us, or should the purchaser or external third parties make any changes to the rejected goods without our prior consent, any claims for damages will be forfeited.
- (9) We shall be entitled to decide, at our own discretion, whether to mend the rejected goods or to replace them with flawless substitutes.
- (10) If the supplementary performance entails disproportionately high costs, we shall be entitled to refuse it, in which case the purchaser is free to withdraw from the contract or demand abatement of the purchasing price. If supplementary performance is feasible and does not entail disproportionately high costs, but we fail to meet our contractual obligation within an appropriate period of time, the purchaser shall set a final deadline within which we are to comply with our contractual obligations. Following expiration of such deadline, the purchaser shall be entitled to demand abatement of the purchasing price, to withdraw from the contract or to commission a third party with the repair works at our cost. We shall not be obliged to bear any additional costs incurred by the transportation of the goods to a different location, be it the purchaser's head office or branches, unless this corresponds to the intended use of the goods, which we were made aware of.
- (11) We shall accept liability for claims for damages asserted on the part of the purchaser in line with applicable law, provided we are charged with intent or gross negligence on our part or on the part of our legal representatives or our auxiliary persons. If no intent is given, our liability shall be limited to the typical, foreseeable damages.
- (12) We shall accept liability in line with applicable law for the violation of cardinal duties on our part or on the part of our legal representatives or our auxiliary persons. However, liability shall be limited to the typical, foreseeable damages.
- (13) Statutory liability for damages incurred to a person's life, body or well-being, as well as liability in line with the Product Liability Act shall remain unaffected by the aforementioned provisions. However, it shall be incumbent upon the purchaser to communicate the information provided by us on the respective goods (product information and intended use, improper use, product capacity, maintenance, information and instruction duty) to his customer and to observe such information vis-à-vis his customer and to commit his customers to do the same vis-à-vis his customers in turn. Otherwise our liability shall be excluded to the extent that is legally admissible.
- (14) To the extent that this is legally admissible, we exclude all further liability for claims no matter for what reason. This applies in particular for claims arising from culpa in comprehendo, other breaches of duty or tort action according to § 823 BGB (~ German Civil Code) as well as for lost profit and other material damages. § 444 BGB (~ German Civil Code) shall remain unaffected.  
 We are by no means bound by recourse law to any agreements made between the purchaser and his customer that are beyond legal liability claims. To the extent that our liability is excluded or limited, the same shall be applicable for any personal liability on the part of our legal representative, staff and auxiliary persons.
- (15) Unless otherwise stipulated by relevant, conclusive law, our contractual and noncontractual liability (also from tort law) shall be limited to the amount of our insurance cover:  
 EUR 2,555,000 for material damages  
 EUR 51,000 for financial losses

**XI. Retention of Title**

- (1) All deliveries are executed subject to retention of title. All goods delivered shall remain our property until all claims vis-à-vis the purchaser have been settled.
- (2) If the purchaser uses the goods supplied by us for the processing of a new object, such processing shall be effected on our behalf without any obligations on our part. The purchaser stores the goods on our behalf. The acquisition of property on the part of the purchaser according to § 950 BGB (~ German Civil Code) shall be excluded. If the goods are processed together with other goods not delivered by us, we shall acquire partial property of the new object, in proportion to the value of the goods delivered by us and the other goods at the time of processing. The new object shall be deemed subject to retention of title within the meaning of these Terms.
- (3) The right to sell the goods subject to retention of title in ordinary business transactions shall be limited to purchasers who are also resellers. The purchaser herewith assigns his claims from reselling the goods subject to retention of title to us, the amount being equivalent to the value of the goods subject to retention of title; for the sale of goods processed together with other goods not delivered by us, or for other sale at a total price, the amount shall be calculated on the basis of the provisions of paragraph 3 above. If the goods subject to retention of title are integrated as integral parts into a third party construction project, the purchaser herewith assigns his claims against the third party or the party concerned to us, the amount being equivalent to the value of the goods subject to retention of title. If we are partial owners of the goods subject to retention of title, the assignment of claims shall be limited to the amount that is equivalent to the value of our share of the joint property. If the purchaser is entitled to create a cautionary mortgage in accordance with § 648 BGB (~ German Commercial Code), this claim shall be assigned to us to the amount that corresponds to the value of the goods subject to retention of title. The value of the goods subject to retention of title in this sense represents the value of our total receivables, including incidental claims (in particular cost and interest), plus a 20% cautionary surcharge. We herewith accept all aforementioned assignments and agree to all transfers of claims. We shall establish the rank of a partial amount that has been assigned in connection with the total receivables accruing to the purchaser.
- (4) The purchaser shall only be authorized to sell or install the goods subject to retention of title with the proviso that all payment, wage or other compensation requests according to paragraph 3 are assigned to us. The purchaser shall not be authorized to dispose of the goods subject to retention of title in any other manner (including pledging and cautionary assignment) or to dispose of the claims that have been or are to be assigned to us according to paragraph 3 in any other manner (including assignment, cautionary assignment and pledging).
- (5) We conditionally authorize the purchaser to collect the receivables from the sale of the goods, the wage requests or other compensation claims. The purchaser thus acts as debt collector on our behalf and shall submit all amounts collected up to the amount of our receivables (including incidental claims, such as costs and interest). We shall refrain from making use of our authority to collect debts as long as the purchaser continues to meet his payment obligations. If requested to do so, the purchaser shall disclose to us the debtors of the claims that have been assigned and shall announce the assignment to them. We are herewith authorized to announce the assignment to the debtors on the purchaser's behalf.
- (6) In case of garnishment or other third party access to the goods subject to retention of title, the purchaser shall notify us without undue delay and, if required, initiate intervention that cannot be delayed, immediately and at his own expense.
- (7) If the value of the securities granted to us exceeds the value of our receivables by more than 20%, we shall be obliged, at the purchaser's request, to transfer or release securities in that respect. We shall determine the securities to be transferred or released at our own discretion. Once the full amount of all receivables from the business transaction has been settled.

**XII. Lien, Set-off and Cession**

- (1) Lien shall be excluded if the purchaser is obliged to make payment in advance; for the rest it shall only be admissible to the extent that it is based on the same contractual agreement.
- (2) The purchaser may only set off indisputable or legally established claims.
- (3) The purchaser's cession of any claims held against us to third parties requires our express prior consent.

**XIII. Patents**

If production of the goods is based on information, drawings or sketches provided by the purchaser, it shall be incumbent upon the purchaser to ensure that no third party patent or other trademark rights are infringed. Our liability is excluded in the legal relationship to the purchaser. The purchaser shall indemnify us from any third party claims and shall reimburse all costs incurred in connection with our defence against such third party claims.

**XIV. Place of Performance, Jurisdiction and Applicable Law**

- (1) The place of performance shall be in Heiligenhaus.
- (2) The legal venue for all claims arising to the Parties from this agreement, including action on a bill of exchange or a cheque, shall be the competent local court at the location of our head office. We may also choose to file action at the competent local court at the purchaser's location.
- (3) The legal relationship with the purchaser shall be exclusively based on the jurisdiction of the Federal Republic of Germany. The execution of the United Nation Convention of 11 April 1980 on Contracts of the International Sale of Goods (CISG) shall be excluded.