

General terms and conditions (GTC) of confer GmbH, Bielefeld

§ 1 Application

1. The following 'General terms and conditions' shall apply to all quotations, sales and deliveries by the seller – also in cases where the buyer stipulates other terms and conditions. Any deviation from the following 'General terms and conditions' shall only be valid subject to be written consent of the seller.
2. These conditions are also valid for all follow-up transactions with the buyer.

§ 2 Quotations

1. Our offers are nonobligatory in all parts.
2. Illustrations, drawings, calculations and other documents we reserve the right of ownership and copyright. The above documents can not be made available to third parties without our express written consent.
3. Unless otherwise agreed, apply to the contractual relationship with the relevant DIN standards; in particular, see the following standards apply: DIN 2088 and 2089 (½ sheet for calculations), DIN 2076, 2095 (wires) and DIN 7168 (stampings) for quality and condition.
4. Our offers and delivery commitments are subject to coverage by our credit insurance.

§ 3 Delivery prices and terms of payment

1. Provided that the contractual agreements otherwise, our prices are "ex works our production contractor" excluding packaging; these will be invoiced separately.
2. There is a minimum invoice value of 25,00 € + VAT as agreed. This amount is also calculated for orders of less than € 25,00.
3. All prices quoted by us are net prices; they are plus VAT at the statutory rate on the date of invoicing.
4. Unless contractually agreed otherwise, the invoiced amount is without deduction due for payment within 10 days from the date of invoice. If the purchaser is in default of payment, we are entitled to charge default interest in the amount of the overdraft interest rates bank usual. For the reminder of overdue payments will be charged late fees in the amount of € 10,00 + VAT from 2nd reminder. Both the customer and us remains subsided to prove that as a result of default in payment a higher or lower or no damage has occurred. For deduction of discount the customer is not right, without specific written agreement. - In case of non-coverage by our credit insurance payment condition "advance payment" applies.
5. Rights of set-off is only to the the buyer if his counterclaims have been legally established, undisputed or acknowledged by us. In addition, the purchaser to assert a right of retention only insofar as his counterclaim is based on the same contractual relationship as the payment claim is based.

§ 4 Delivery and delivery time

1. The beginning of the agreed delivery period presupposes the clarification of all technical questions.
2. If we are for reasons which we are responsible, in default of delivery, are claims of the purchaser to compensation for the damage caused by delay in an amount equal to 1.0% of the delivery value for each completed week of delay up to a maximum of 10.0 % of the value is limited. This restriction does not apply if the delay is due to intent or gross negligence.
3. Are we default and sets us the purchaser a reasonable grace period with threat of rejection, he shall be entitled after the expiry of the grace period to cancel the contract. Claims for damages for non-performance in the amount of the foreseeable damage the buyer is only entitled if the delay is due to intent or gross negligence; moreover, the liability for damages is limited to 20.0% of the damage occurred.
4. The limitation of liability in accordance with the preceding paragraphs 2 and 3 shall not apply if a firm deal has been agreed; the same shall apply if the purchaser can claim because of the fault for which we delay that his interest to the contract has ceased to exist.
5. If the purchaser is in default of acceptance or violates other duties to cooperate, we are entitled to demand compensation for damages incurred by us, including any additional expenses. In this case, the risk of accidental loss or accidental deterioration of the goods goes over to the customer at the time, in which it is in default of acceptance.

§ 5 Transfer of risk

1. Provided that the contractual agreement states otherwise, delivery is agreed "ex works of our production contractor". This is true even if the purchased item will be sent on request of the customer to a different address. The risk is then transferred with the transfer of the goods to the carrier to the customer.
2. If the customer wishes, we will cover the delivery by a transport insurance; the costs incurred by the purchaser.

§ 6 Elimination of defects

1. Warranty rights of the customer assume that this has fulfilled its inspection and complaint pursuant to §§ 377, 378 HGB (HandelsGesetzBuch/Germany) properly.
2. If there is a justifiable defect in the purchased goods, we are entitled at our discretion to remedy the defect or replacement delivery. In the case of removal of defects, we are obliged to bear all necessary costs, in particular transport, travel, labor and material costs, insofar as these are not increased by the fact that the goods have been transported to a place other than the place of performance.

3. Are we to remedy the defect / replacement not willing or not able, or if this is delayed beyond a reasonable period for reasons that we are responsible for , or if the rectification / replacement for other reasons fails, the customer has the choice to rescission of the purchase contract or to reduce the purchase price justified. As far as nothing else, further claims of the customer - regardless of the legal grounds - are excluded. We are therefore not liable for damages that are not caused to the item itself; in particular we are not liable for lost profits or other financial damages of the purchaser. The above exclusion of liability shall not apply if the damage is caused by intent or gross negligence. It also does not apply if the purchaser because of the lack of a guaranteed property damage claims for non-performance in accordance with § 463, 480 paragraph 2 BGB (Bürgerliches Gesetzbuch Germany) . The above exclusion of liability shall continue for damage caused by the culpable violation of contractual principal obligations (so-called essential contractual obligations); unless intent or gross negligence, our liability is limited in this case to the amount of the typically foreseeable damage.

§ 7 Joint and Several Liability

1. Any further liability for damages as provided in § 6 is - regardless of the legal nature of the claim - excluded. This rule does not apply to claims which are subject to enforcement pursuant to §§ 1 and 4 of the "Act concerning liability" (Produkthaftungsgesetz/Germany) against us. The same applies for initial inability or impossibility.
2. Insofar as our liability is excluded or limited, this also applies to the personal liability of our employees, workers, staff, representatives and vicarious agents.

§ 8. Reservation of ownership, retention of title/RoT

1. We reserve ownership of the goods until full adjustment of the purchase price including ancillary costs (freight, packaging, etc.). In breach of contract, in particular default in payment, we are entitled to take back the goods. The taking back of the goods by us does not constitute withdrawal from the contract, unless we have expressly declared in writing. The seizure of the goods by us shall always constitute a withdrawal from the contract. We are entitled to sell the goods to their recovery; the remaining after deducting the reasonable costs of realization proceeds shall be credited to the customer's liabilities
2. The customer is obliged to handle the goods with care. He has this to insure against fire, water and theft at replacement value. Maintenance and repair work has to the extent necessary to carry out at his own expense of the purchaser.
3. If third parties seizure or other interventions the purchaser is obliged to inform us immediately. The buyer is also obliged in this case to assist us in and out of court assertion of our rights to the full extent, in particular, provide us with the necessary information.
4. The purchaser is entitled to resell the goods in the ordinary course of business; he assigns to us all claims in the amount of the final invoice amount (including VAT) , which arise from the resale against his customers or third parties . This assignment is independent of whether the item is sold without or after processing. We take this assignment. The customer remains entitled to collect the debt in the ordinary course of business . This authorization shall expire if the customer does not meet his payment obligations from the proceeds collected, or if he falls into arrears. It goes further, if an application for commencement of insolvency or composition proceedings is provided over the assets of the purchaser or if the purchaser stops payments. In these cases we are entitled to collect the assigned claim itself. The purchaser is obliged to provide us with all information necessary for collection and hand over the relevant documents. The buyer is also obliged in this case to inform the debtors (third parties) of the assignment.
5. The processing or transformation of the goods by the customer is always done for us. If the goods are processed with other objects not belonging to us, we shall acquire co-ownership of the new item in proportion to the value of the goods to the other processed objects at the time of processing. Incidentally for the object resulting from the processing, the same as for the goods delivered under retention of title.
6. If the goods are inseparably mixed with other objects not belonging to us, we shall acquire co-ownership of the new item in proportion to the value of the goods to the other processed items at the time of mixing. If the mixing in such a way that the object of the customer is to be regarded as the main item, it is agreed that the purchaser transfers proportional joint ownership to us. The customer shall keep the sole ownership or co-ownership for us.
7. We undertake to release the securities due to us at the customer's request, the value of our securities exceeds the secured claims by more than 20%; the choice of the securities to be released by us.

§ 9 Place of Performance, Applicable Law and Jurisdiction

1. Unless otherwise agreed by contract, the place of performance is Bielefeld.
2. All business relationships with us is exclusively to the laws of the Federal Republic of Germany. The applicability of the CISG (UN-Convention of Contracts) is excluded.
3. If the customer is a registered merchant, the place of jurisdiction is Bielefeld. However, we are entitled to sue the customer at his general place of jurisdiction.