

General Terms and Conditions

Ernst Blissenbach GmbH

(Effective as of March 1999)

I. Exclusive Applicability and Acknowledgement of our General Terms and Conditions

1. All our offers are based on our General Terms and Conditions, and we accept orders solely on these Terms. We do not recognize the validity of any of our business partners' General Terms and Conditions.
2. By placing an order or accepting a delivery, the customer acknowledges the applicability of our General Terms and Conditions not just to the transaction in question, but also to all future business transactions.

II. Offers - Ancillary Agreements - Content of Agreement

1. Our offers do not oblige us in any way, and a contractual agreement is concluded only when we accept an order.
2. Any agreement ancillary to our offers and order acknowledgements shall be valid and effective only if confirmed by us in writing.

III. Nature of Goods

1. Illustrations, drawings, dimensions, and weights presented in catalogues, price lists, or other printed matter are customary approximations. We reserve the right to make changes in the design or to use other materials where that is technically necessary or essential for the appearance of the product, insofar as such changes are reasonable with regard to the intended use of the product.

IV. Right of Rescission

1. We shall be entitled to rescind the contract in the event that we should encounter insurmountable technical difficulties, or that overcoming such difficulties would entail disproportionately high costs with regard to the value of the product(s) to be delivered, or that we should become aware of circumstances that cast doubt upon the customer's credit rating.
2. Force majeure and Acts of God shall also entitle us to rescind the contract. Strikes, lockouts, and similar situations are treated as force majeure.

V. Prices

1. Our prices are quoted for delivery ex works, exclusive of value-added tax, packing, customs duties, any other import duties, and insurance.

VI. Term of delivery

1. Terms of delivery are approximate dates only. If delivery is delayed by circumstances beyond our control, such as force majeure, official acts, labour disputes, difficulties in the procurement of materials, disruption of production processes, special customer wishes, or similar factors, then the term of delivery shall be extended by the length of time that such circumstances prevail. The same shall apply in the event of delays due to our receipt of wrong or belated deliveries by our suppliers through no fault of ours. Should an impeding circumstance last for more than six weeks and an end thereto not be foreseeable, then both the customer and we shall be entitled to rescind the contract insofar as it cannot be fulfilled by us on account of the impeding circumstance.
2. A failure to meet a delivery deadline or default on our part shall not entitle the customer to any claims for damages against us, unless the delay is due to willful action or gross negligence on the part of our company management or employees.

VII. Liability for Defects

1. We do not, under any circumstances, warrant that the goods ordered are suitable for the use intended by the customer, or that they can be used or processed by the customer or his customer under the conditions existing on his site or premises. On the contrary, it is incumbent upon the customer to investigate such circumstances beforehand. We shall not be liable for flaws resulting from material supplied by the customer (drawings, samples, etc.).
2. Any notice of defect shall have to be made in writing. Should only part of the delivered goods be defective, then the customer shall not be entitled to reject the entire shipment. If a properly submitted notice of defects is substantiated, we shall replace these with flawless products. The customer shall, at our request, return the defective goods to us at our expense. In this case, he shall not be entitled to a replacement until we have received the return shipment. Instead of replacing the defective goods, we shall also be entitled, at our option, to rework them, to annul the contract of sale with respect to the defective goods, or to reduce the price thereof. The customer shall be entitled to set us a deadline of ten days from our receipt of the return shipment for the exercise of the above option. Should we not exercise our option within the specified period of time, then the right to do so shall accrue to the customer.
3. The customer shall have no rights other than those specified herein; in particular, he shall not be entitled to claims for damages, claims for damages consequential to product defects, or claims for our failure to meet our obligation to replace or rework defective goods, unless the defect or the violation of our warranty obligation is due to willful action or gross negligence on the part of our company management or employees.

VIII. Product Liability and Liability for Mistake in Contractual Negotiations

1. Should damage result from an intrinsic risk of a product supplied by us - whether such risk be due to a defect of the product or related to its condition in conformity with the contractual requirements - or should damage result from a failure to warn, or to warn adequately, that such a risk exists, then the party that incurred the damage shall not be entitled to file any claim for damages against us, unless the damage was due to willful action or gross negligence on the part of our company management or employees.
2. We shall not be liable for the consequences of any mistake arising in the course of contractual negotiations and, in particular, for the consequences of inadequate or incorrect counsel given to the customer, unless such consequences are due to willful action or gross negligence on the part of our company management or employees.

IX. Invoices - Payment

1. We shall issue our invoice as soon as the goods ordered are ready for shipment or pickup. Delays in delivery or pickup of the goods due to circumstances beyond our control shall not affect the point in time when the invoice becomes due and payable.
2. Our invoices are due and payable no later than 30 days from the date of issue. The customer shall be entitled to deduct a discount of 2.00 % on payments effected within 10 days of the date of the invoice. Labour costs are due and payable immediately net and in cash.
3. Should the customer fail to pay by the due date, then we shall be entitled - even without declaring him to be in default - to charge interest as of the due date at the rate that our bank charges for a loan, but in any case such interest rate shall be at least 5 % above the then-current discount rate of the Deutsche Bundesbank (German Federal Bank).
4. If, after the conclusion of an agreement, we should become aware of circumstances that cast doubt upon the customer's credit rating, we shall be entitled, at our option, to require payment in advance or the posting of a bond. The same shall apply in the event that the customer should fail to meet his financial obligations towards us as these become due and payable. In any such event, all our accounts receivable - including those relating to other business transactions - shall become due and payable immediately.
5. Where we accept cheques or bills of exchange as instruments of payment, this shall always be deemed on account of payment but not on account of performance.
6. The customer shall not be entitled to offset amounts against our receivables or to withhold partial sums from amounts due and payable. However, the foregoing shall not apply to customer's receivables that are uncontested or that have been adjudged, nor to the exercise of a withholding right until such receivables have been paid.

X. Retention of title

1. We shall retain ownership of any goods delivered by us until such time as all our accounts receivable as a result of our business transactions with the customer have been paid in full, including amounts specified in current invoices.
2. No ownership rights whatsoever shall accrue to the customer as a result of any processing of goods delivered by us, including any mechanical connection to, or joining or mixing with other goods. Any processing of our goods shall be carried out on our behalf, and we shall be deemed to be the manufacturer thereof. If our goods are processed with goods of other origin that are also subject to a similar retention of ownership, we shall have ownership of the resulting goods commensurate with the value of our invoiced goods in proportion to the value of the other goods at the time of processing. The property thus engendered in our favour shall have the same juridical status as the goods originally delivered by us.
3. All of the customer's accounts receivable resulting from the sale of goods of which we have ownership in whole or in part shall, upon the conclusion of the agreement of sale, be assigned to us in the amount equal to the value of our invoiced goods, irrespective of whether or not the goods are sold without processing or after processing, mechanical connection to, or joining or mixing with other goods, and irrespective of whether they are sold to one or more buyers.
4. The customer shall, at our request, inform his debtors of the assignment of the accounts receivable and inform us of the identity of his debtors and the amounts owed by them, and hand over to us the documents that we need in order to collect the assigned amounts.
5. The customer shall be entitled to sell or process (processing including connection to or joining or mixing with other goods) goods of which we have ownership in whole or in part only within the scope of his normal course of business.
6. Should the customer default, in whole or in part, on an obligation for which our retention of ownership serves as security, or should we become aware of circumstances that appear to endanger our rights, then we shall, without prior declaration of rescission of the agreement of sale according to Sect. 455 BGB (German Code of Civil Law) or granting of a deadline for fulfillment of the obligation according to Sect. 326 BGB, be entitled to demand that the goods delivered by us be returned to us. Such demand and the return of the goods to us shall not affect the substance of the agreement of sale and the obligations of the customer.
7. Our retention of ownership shall be voided with the payment in full of all our accounts receivable from the business relationship, and the goods secured thereby shall automatically pass into the full ownership of the customer and the assigned accounts receivable shall revert to him. We shall be obliged and undertake, at the customer's request, to release at our discretion securities (i.e. goods and assigned receivables) that we hold according to the foregoing provisions, insofar as the value of such securities exceeds by more than 20 % the value of our interests that are thereby secured.

XI. Place of Fulfillment - Place of Jurisdiction - Applicable Law

1. The place of fulfillment for deliveries of goods shall be the place from which such goods are shipped in the individual case; for payments, the place of fulfillment shall be Remscheid, Germany. Remscheid shall be the exclusive place of jurisdiction for any and all actions relating to the agreement of sale - including summary proceedings for nonpayment of cheques or bills of exchange. Notwithstanding the foregoing, we shall be entitled to bring an action against the customer before any other court of competent jurisdiction.

XII. Legal invalidity of Individual Provisions

1. Should any provision in these General Terms and Conditions be or become legally invalid for any reason whatsoever, then such circumstance shall not affect the validity of the remaining provisions.