

Terms and Conditions of Sale and Delivery

Preliminary Note

Our Terms and Conditions of Sale and Delivery have been translated into English language for customers, who do not have a good command of German language. The translation merely provides a better understanding of the content. Please note, that this translation is non-binding. The contracting parties agree, that only the German version is binding for their legal relationship. German law is to be applied exclusively in all cases of disputes.

- 1. Agreements and orders** require our written confirmation to be valid. Our submitted drawings must be checked for accuracy and any changes required must be promptly reported to us. In case the notification of change is omitted, we are not liable for defects and their removal. Our drawings are not allowed be copied, disclosed or given to third parties. All drawings remain our property.
- 2. Offers** are without engagement and subject to prior sale. The information given in the offers, the price lists about the dimensions and weights as well as all drawings and illustrations are only approximately and therefore always non-committal.
- 3. Prices**
 1. Unless otherwise agreed, our prices are quoted ex works plus the value added tax at the respective statutory rate.
 2. Should there be, later than four weeks after the conclusion of contract, a fluctuation of charges or other external costs, which are included in the price agreed, or if new charges are generated, we are entitled to a change of price to the corresponding extent.
 3. Should our steel suppliers increase their prices before we have delivered the goods, we are entitled to increase the price agreed with the buyer for the goods not being yet delivered at the same rate, if and as far as we increase our prices in general.
- 4. Our deliveries** are considered as accepted after delivery or loading at your yard.
- 5. Delivery dates** will be adhered to where possible; however, they are not be deemed as fixed dates.

In case we have missed the promised delivery time, the buyer has the right to withdraw from the contract only if the delivery of the goods cannot take place within a reasonable extension of time for us.

The buyer cannot invoke claims for damages and/or claims for consequential harm caused by a defect, unless our intent or gross negligence are proved.

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Sitz der Gesellschaft ist Tagmersheim
Geschäftsführer: Beringer Hans-Josef
Erfüllungsort und Gerichtsstand ist Nördlingen
Handelsregister Augsburg HRB 311
USt.-Ident-Nr.: DE 811 792 487

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Delivery and service delays due to force majeure and due to events that make delivery substantially more difficult or impossible (material procurement difficulties, operational breakdowns, strikes, lockouts, staff shortages, lack of means of transport, official directives, etc.) do not constitute likewise any claim for damages.

Partial deliveries by us are permitted. Returns are only permitted with explicit and prior written consent from our side.

6. **The delivery** takes place at the buyer's risk and expense. The shipping instructions are to be indicated in the order. Packing shall be charged at cost price; packing material will not be taken back. We are not liable for transport damages.

7. **Warranty**

- All information concerning suitability, processing and utilization of our products as well as the technical advices and other information are given to the best of our knowledge. However, they do not exempt the buyer from its own careful checks and trials.
- Upon receipt, the buyer must immediately inspect the delivered goods for defects in terms of condition and intended use, otherwise the goods are considered as approved.
- Complaints will only be considered if they are made in writing and accompanied by supporting documents within one week after receipt of the goods.
- Our warranty obligation is limited to our choice of rectification, replacement, reduction or cancellation of sale contract.

Complained goods are only allowed to be returned with our explicit agreement.

Damages - for whatever legal reason - will not be paid.

8. **Payment** is to be made, unless otherwise agreed, within 30 days of receipt of invoice without deduction or within 8 days minus 2% discount. Delayed deductions are not accepted and the deducted amount will be demanded later.

After ineffective expiry of the 30-day grace period, the customary interest on current account credit will be charged as default interest, subject to the assertion of further rights, without the need for a formal notice of default.

Payment by bill of exchange requires previous agreement.

In case of a non-punctual and/or insufficient payment fulfillment, any warranty obligation on our part expires. Payments should only be made to us directly or to our specified accounts. Representatives or other persons are only authorized to collect payments with proof of explicit written approval from our side.

If the buyer withdraws from the contract, she/he has to pay us clearance charges (i.e. lump sum compensation of 20% of the order final net amount plus value added tax).

Something else applies, if the customer proves that no damage or depreciation in value has occurred or is substantially lower than the lump sum.

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9. Enhanced and extended reservation of ownership rights with processing and bankruptcy clauses

All our deliveries are subject to reservation of ownership rights. The property passes to the buyer, if she/he has paid off all his liabilities from his business relationship with us. This also applies if the purchase price for certain delivery of goods designated by the customer has been paid.

In case of an outstanding account, the reserved property may be deemed as security for our balance claim. If bills of exchange or checks have been given in payment, the encashment will be considered first as repayment. The handling and processing are carried out for us under exclusion of the acquisition of property according to § 950 BGB, without obligation to us. The processed goods serve as a security for the invoice value of the processed reserved goods.

In case of processing by the buyer with other goods not belonging to us, we are entitled to ownership of the new object in proportion to the invoice value of the processed reserved goods at the purchase price of the other processed goods.

The same applies to the new item as to the reserved goods.

In case of reselling the reserved goods, the corresponding claims for the buyer will be automatically assigned to us. This assignment shall also apply if our customer has worked on or processed the reserved goods beforehand or if she/he has resold them to several customers. The offset claim serves as security for the value of the goods sold.

In case the buyer has resold the goods together with other goods not belonging to us, whether prior or after handling or processing, the assignment shall only apply for value of the goods according to our invoice.

All sales and processing authorizations mentioned in the clause cease to exist at the moment the buyer declares bankruptcy. These authorizations shall emerge again either if the assignee in bankruptcy pays the outstanding accounts of the creditor or if the creditor has expressly granted the assignee in bankruptcy a special authorization.

Our claims arising from the contractual relationship with the customer are not assignable.

In particular, the buyer is not entitled to sell or otherwise assign by way of genuine or fake factoring the supplier's claims arising to the buyer based on the agreed, enhanced or extended reservation of ownership rights to third parties.

10. Place of fulfillment for delivery and payment is Tagmersheim.

The place of jurisdiction for complaints concerning the documentary process, claims arising out of a bill of exchange and claims concerning payment of a cheque is the district court Donauwörth, as far as the legal venue is not determined by law.

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11. Terms and conditions of purchase of the buyer are not binding for us.

12. For delivery to foreign country, is also the exclusive applicability of German law agreed.

Last updated: May 2018



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