

For use in business dealings with companies

1. General

Our offers, sales, deliveries and other transactions are carried out exclusively on the basis of the following terms. By entering into contractual relations with us the customer recognises these terms. Any terms to the contrary employed by the customer become legally invalid once the customer enters into a business deal with us or accepts deliveries and services from us as we herewith expressly gainsay the contrary terms.

If any particular individual terms are agreed which differ from our general terms of sale, the remaining terms of sale are unaffected thereby. Any oral agreements or communications on our part and any telephone and telegraphic communications on the part of the buyer require our confirmation in writing in every case. Our representatives and commercial travellers are neither instructed nor authorised to enter into legally binding contracts.

2. Deliveries and Services

Deliveries and services are effected ex our warehouse or works and take place at the customer's risk and on his account. The customer cannot refuse part deliveries. All perils are transferred to the customer as soon as the goods leave our site or as soon as they are made available to the customer including, if applicable, by the presentation of an invoice.

Insurance against loss and damage will be undertaken only if the customer requires it, if he states what kind of insurance he wishes to have and reimburses the expenditure involved. Deadlines for deliveries or services are deemed to have been met if the goods to be delivered have left the works before the expiry of the deadline or if the dispatch note has been issued. The agreed delivery date is to be regarded as an approximation. Returns are allowed only on the basis of a written agreement and must be carriage paid, if applicable.

In the case of a delayed delivery, the customer is obliged to inform us, at our request, within a reasonable time limit whether, as a result of the delay, he will withdraw from the contract or whether he still requires the delivery. Both claims for damages by the customer for delays in delivery and claims for damages in lieu of the goods or services are excluded in all cases of delayed delivery, even after the expiry of any delivery deadline that we may have set.

This does not apply where conclusive legal liability exists in cases of gross negligence or of injury to life, limb or health. Within the framework of legal regulations, the customer may withdraw from the contract only if we are responsible for the delay in delivery. A change in the burden of proof to the customer's disadvantage is not implied in the above provisions.

In the case of force majeure or unforeseen, exceptional circumstances for which we bear no responsibility, the delivery deadline is extended appropriately, at least until the obstacle has been overcome and an additional appropriate start-up period has expired, without our being liable for the delay and its consequences. In such cases we are also entitled to withdraw from the contract without the customer's having any claim to damages of any kind against us. The same applies if, in similar cases, we are confronted by higher or unreasonable costs. In these cases the customer has no right to give us formal notice of default or to demand damages.

All tools manufactured by us remain exclusively our property in all cases even if the customer has agreed to pay a proportion of the costs.

We reserve the right to make modifications to our products, series or models. We are entitled to supply the product, series or model that best corresponds or approximates to the one ordered.

3. Prices

Our prices are ex-warehouse or ex-works; value added tax must be added at the rate applicable at the time. Packaging is charged separately at cost price. The prices quoted in the price list are internal prices. These will be adjusted to the prevailing cost of wages and materials applicable at the particular point in time, and will be notified.

4. Payments

Accounts are payable either within thirty days of the date of issue or within fourteen days of the date of issue at a discount of two per cent. Whether a payment arrives in good time or not depends not upon the date it is sent but upon the date it reaches us. Discount may not be deducted if any older accounts are still outstanding. These provisions apply also to part deliveries. If the payment period is exceeded, it is taken as agreed that interest is payable on arrears at the rate of eight per cent above the bank rate of the German Federal Bank (Bundesbankdiskontsatz) applicable at the time. In such cases we can delay the supply of further goods or to refuse to supply them. If it has been agreed that payment may be made in bills of exchange, cheques or other remittance orders, crediting is granted subject to receipt and to validation of disposability; in such cases the costs of collection, discounts etc. will be borne by the customer. Non-discountable securities may be rejected. Representatives and commercial travellers are entitled to collect only if they have the appropriate written authority; in such cases, entitlement to collection is limited to non-negotiable cheques.

The customer may off-set counter-claims against us only if they are recognised by us in writing or legally established, or assert right of withholding on account of payments due, but this can never apply in the case of mere complaints. If we learn information about the customer's creditworthiness that is more unfavourable than the information available when the offer was made or when the contract was entered into we are entitled to amend the conditions of payment – independently and by shortening the period of validity of any other remittance orders such as bills of exchange – retrospectively and at our own discretion, for instance, by demanding payment in advance or sureties or damages, in lieu of the supply of goods or services, damages or to assert our reservation of title and require immediate return of the goods supplied without there being any entitlement to compensation against us.

5. Reservation of Title

Until complete and final settlement of all our claims and accessory claims – including future ones – arising from the business relationship with the customer has been made (in the case of payment by cheque or bills of exchange until encashment is effected) we reserve proprietary rights to the goods supplied by us, on whatever legal grounds. The reservation of proprietary rights remains even if debts are included in a current account (open account), or if balances are struck from it and recognised.

If the customer or his representative processes, combines, mixes or develops our goods under reservation this modification is deemed to have occurred on our orders without any obligations arising from this, with the proviso, however, that we retain ownership or co-ownership of the new item at least by the extent to which it corresponds to the value of our goods under reservation in terms of the processed raw materials or items, whereby we become the manufacturers; this is an offer the customer makes to us irrevocably. In this case the goods are in the customer's safe keeping. If applicable, the customer must reach an appropriate agreement with his own customers so that our reservation of proprietary rights remains unaffected by the aforementioned measures. The customer may dispose of our goods or those arising from processing etc. (§ 950 BGB; Bürgerliches Gesetzbuch = German Civil Law Code) only in the proper course of business. He hereby transfers any claims arising in this connection, including any sureties, to us as surety. He is entitled to collect these debts on our account as long as he fulfils his obligations to us in a correct manner and no alterations occur in the assessment of his creditworthiness. The customer must immediately pay to us any sums received in respect of the aforementioned claims and, to the extent that our claim is not yet due, he must inform us of the matter and keep the amounts separate for us until they are due.

For the duration of the period of reservation of rights, it is deemed to be agreed that possession is entrusted to the customer on loan. During the time they are in his possession the customer must treat our goods with as much care as he normally treats those in his own business. He must insure our goods under reservation or the new goods produced by processing etc. against fire and theft and make this a condition when reselling the goods. The customer must inform us immediately and provide us with comprehensive information if goods under reservation are not stored in such a way that they can be identified as belonging to us or if they are to be passed on to firms directly or indirectly involved. In connection with our simple or extended reservation of proprietary rights, we are entitled at all times to demand information from the customer, to look at his books, to identify our goods or to adopt or prescribe other measures that promote our security and, if necessary, to retrieve the goods.

The customer is forbidden to transfer surety, to mortgage or otherwise to charge our goods under reservation. He is also not authorised to undertake simple or global assignment or assignment of assets by means of which claims previously arising or transferred in advance would be covered, subject to the extended reservation of title; if any such transfers have already been made, third parties must be informed that these transfers do not apply to the disposal of our goods under reservation or in respect of our share of the new items.

Our reservation of title is reasserted if, after our claims have been fully met, the customer becomes indebted to us. In such a case it is already agreed in advance that the title transferred to the customer by means of the transference of indirect property and the surrender of direct property in the form of a loan of goods to the customer will revert to us. If the invoice value of the surety given to the vendor exceeds the claim for goods, including ancillary costs (e.g. interest charges, costs etc.) by more than twenty per cent, at the request of the buyer or a of a third party disadvantage, we will be obliged to provide surety of our choice.

6. Material Defects

Claims for material defects lapse after twenty four months. This does not apply in as much as legislation prescribes longer deadlines, as laid down in §§ 438 1, no. 2 (buildings and material for buildings), 479 1 (claim for compensation) and § 634 a 1, no. 2 (building defects) BGB. In addition, we would point out that our manufacturer's warranty which states that we provide a five years' warranty for the purchase and erection of licensed half-timbering. Statutory regulations governing the suspension of expiry dates, suspension and the setting of new deadlines are unaffected by this. Claims for damages for defects do not apply to insignificant differences from the agreed specification, to unimportant impairment of usability, to natural wear and tear or to damage that, following the transfer of perils, arises as a result of incorrect or careless treatment, exposure to excessive stresses and strains, inappropriate fuel, inadequate construction work, inappropriate building site or as the result of particular external influences. If the customer or third parties undertake improper modifications or repair work, no claims for damages can be made for these or for the consequences arising from them. Claims by the customer in respect of the expenditure necessarily incurred in subsequent compliance, in particular the costs of transportation, infrastructure, labour and materials, are excluded in as far as the expenditure increases because the object to be supplied is subsequently taken from the customer's premises to another place unless the move conforms to its agreed use.

Entitlement to damages for material defects and right of redress by the customer against us in accordance with § 478 BGB (employer's redress) exists only in as far as the customer has not made any agreement that exceed the statutory entitlement to damages. In respect of the extent of the customer's redress against us, in accordance with § 478 11 BGB, the provision in the previous paragraph also applies, as appropriate. If the complaint is unjust we are entitled to demand that the customer shall reimburse the expenditure involved.

KEUCO Terms of delivery, sales and payment

For use in business transacted with companies

Faults in goods supplied, together with the accompanying attachments, will be rectified by us within the statutorily stipulated period of two years after delivery, following the receipt of an appropriate complaint from the customer. This will be effected by means of cost-free repair or replacement, at the customer's choice. In the case of replacements, the customer is obliged to hand over the faulty object.

The customer is obliged to examine delivered goods for obvious defects that an average customer would notice at once. Obvious defects include missing attachments and easily visible damage to the goods. In addition, this covers cases in which a different item or too small an amount is delivered. We must be notified in writing of complaints about such obvious defects within two weeks of delivery. We must be notified in writing of complaints about defects that do not become evident until later, within two weeks of the customer's discovering them. In the case of any failure to observe the obligation to examine the goods and lodge a complaint, the goods are deemed to be acceptable in respect of the fault concerned.

If the fault cannot be rectified within a reasonable space of time or if the repair or supply of a replacement must be regarded as having come to nothing for other reasons, the customer can, at his wish, demand a reduction of the payment (abatement) or withdraw from the contract. Failure to rectify cannot be asserted until we have been allowed sufficient opportunity to rectify the fault or to supply a replacement and the desired result has not been successfully achieved, if when rectification or replacement has been made possible we have refused or unreasonably delayed rectification or replacement, if well-founded doubts about the chances of success exist or if unreasonableness for whatever other reason exists.

We exclude our liability for minor negligent breaches of duty provided no obligations central to the contract, no damage to life, limb or health is involved and no claims on warranties or claims in accordance with product liability legislation (Produkthaftungsgesetz) are involved. The same applies to breaches of duty on the part of our vicarious agents.

Our liability for breaches of duty concerning obligations central to the contract is, however, limited to contractually typical, foreseeable loss and damage, provided there is no evidence of intent or gross negligence and provided liability for damage to life, limb or health is involved.

A modification of the burden of proof to the customer's detriment is not involved in the above provisions.

In so far as the customer is entitled to claim for compensation in accordance with this provision, the entitlement lapses with the expiry of the deadline for making claims for material defects. In the case of claims for compensation in accordance with product liability legislation, the statutory regulations governing the limitation period apply.

7. Partial Ineffectiveness

The ineffectiveness or the omission of individual provisions does not affect the remaining provisions. To the extent that the ineffectiveness exists, the parties will reach a legally binding replacement provision that approximates economically and legally as closely as possible to the aim and objective of the ineffective provision.

8. Place of Jurisdiction

Place of jurisdiction is the competent court for Hemer, also in actions concerning the processing of bills of exchange and cheques and actions against third parties who are liable for the customer's obligations, in as far as for legal reasons no other place of jurisdiction is necessarily stipulated.

9. Data Protection

In accordance with the Federal Data Protection Law (Bundesdatenschutzgesetz) of 1 January 1978 we announce that we use electronic data processing. To this end we keep personal data stored; this is, however, limited to data necessary for transacting business.