

Terms of sale, payment and delivery

as per 2006

1. Area of application

- We conduct business only under the inclusion of our general business terms and conditions. It is expressly agreed that our general business terms and conditions are part of any future business transaction even if not acknowledged repeatedly. Latest at the time of delivery and the acceptance of the goods these general business terms and conditions „are agreed to. Any provisions deviating from our GT&C shall only be valid if confirmed by us in writing. Even if a business partner's acknowledgement refers to his own terms and conditions they are hereby rejected and will not be recognized.“
- Deviations from our general business terms and conditions are only valid with our expressed written consent.
- These general business terms and conditions replace all previous versions

2. Offer and signing of the contract

- Our offers are subject to confirmation. A contract is only concluded with our written order confirmation. The contract details are listed in our written order confirmation including additional written and attached documents. Further orders, amendments, modifications and listings are only effective with our written consent.
- Electronically transmitted orders are only accepted with our written approval. The written confirmation cannot be replaced by a simple or qualified electronic confirmation.
- Drawings, graphics, dimensions, weights and any other ratings are only binding if they are expressly acknowledged in the confirmation.
- Oral agreements with our staff our sales staff have to be confirmed by us in writing to be valid. This is especially true when these agreements deviate from the conditions listed below.

3. Prices

Effective are the prices quoted in the order confirmation in Euro, plus packaging and the lawful sales tax at invoice date. Additional charges out of delivery and service will be billed separately.

4. Delivery

- The scheduled delivery dates start with the confirmation date but requires the clarification of all technical questions
- The delivery is ex factory Obercarsdorf. The delivery date agreed upon and confirmed by us in writing is binding.
- We will not be liable for delivery delays, even for confirmed orders, if they are caused by an act of nature beyond our control or caused by circumstances which will make a delivery extremely , difficult or impossible. This includes but is not limited to union strikes, civil unrests, official orders or shipment cancellation from our suppliers that are beyond our control or our responsibility. Under these circumstances we reserve the right to postpone the delivery of goods and services for the duration of these impediments, in addition to a reasonable amount of time taken to resume delivery, and this will not constitute a cause for a damage claim. If such an event were to occur, the onset and end dates of the shipping delay period would be announced to our dealers/ customers as soon as it were possible to do so.
- Indemnity claims for late deliveries are excluded unless it was caused due to a deliberate act or due to gross negligence.

5. Payment

- Payments are due upon receipt of invoice unless other terms are agreed upon initially. A prior written approval is required in order to deduct a skonto amount from our invoice.
- The buyer agrees to pay the invoice amount within 14 days after receipt of goods. The delivery date is attested by the signed delivery sheet.
- We are entitled to post payments against the buyer's oldest unpaid invoice even against the buyer's payment instructions. In this case we will inform the buyer accordingly.
- A payment is considered received only after funds have cleared. In the case of payment by check, the payment is considered received only after the check has cleared.
- We are entitled to assess an 8% default interest per year above the prime rate on all past due amounts .If in any event the 8% default interest above prime are not sufficient to cover the actual loss of money we reserve the right to submit proof of our actual loss and the right to enforce such claim.

6. Reservation of title

Goods delivered, remain the property of Sachsenkuechen GmbH until payment is received in full. Besides the principal this also includes incidental claims and claims out of all open invoices for goods delivered by Sachsenkuechen during a business relationship with Sachsenkuechen, even if certain identifiable claims (invoices) were paid in full (overall reservation of title). The reservation of title secures claims on revolving charge accounts. In case the delivered goods are conjoined with non-Sachsenkuechen goods, the buyer agrees in advance.

It is further agreed upon that the buyer transfers all rights against his/her customers out of delivery of Sachsenkuechen goods including all incidental claims to Sachsenkuechen GmbH, for as long as these goods are still Sachsenkuechen's property at the time of sale (overall reservation of title). The buyer is required to disclose all necessary information to Sachsenkuechen GmbH upon request to assist Sachsenkuechen GmbH in enforcing its rights against buyers' customers. This includes the announcement of a transfer of rights to a third party. Sachsenkuechen GmbH reserves the right to announce the transfer of rights itself. In case the value of the transferred securities exceed the amount of the claim by more than 20%, Sachsenkuechen GmbH is obligated to retransfer upon demand of the buyer.

The buyer is obligated to insure all goods, delivered with reservation of title, against theft and fire. The buyer has to inform Sachsenkuechen GmbH without delay of all levies or any other damaging impacts on their goods. Levies or security transfers of goods delivered with the reservation of title or the transfer of receivables due to Sachsenkuechen GmbH out of sale of Sachsenkuechen goods are not permitted.

Upon buyer's culpable breach of contract, especially for delayed payment and after buyer received a reminder notice, we are entitled to the return of delivered goods and the buyer is obligated to comply. By taking back the delivered goods, enforcing the rights of the reservation of title for goods, or by the issuance of a lien, Sachsenkuechen does not subsequently resolve the contract unless this is stated explicitly.

7. Warranty

- For the rectification of a defect we will elect to either repair or replace the item.
- Demands for a claim will only be accepted if the buyer inspected the goods as required by, and in accordance with, the rules of §377 HGB. Otherwise a demand for a claim is denied. It rests with the buyer to prove, establish and constitute a sound claim, specifically for the damages, from the time of damage recognition and the timely letter of complaint.
- Damages caused by improper use, the incorrect installation or use by the buyer or a third party, regular wear and tear, or incorrect or non intended treatment of the product (s), will not be accepted or settled by us. We will not accept any claims caused by faulty use or by unapproved changes or repairs to the product either by the buyer or a third party.
- Warranty claims become time-barred after 12 months, unless the DGB or any other laws or agreements set different time limits. It is a precondition that the buyer advises us of the claim in time.
- It is generally accepted that only our product description determines the appearance and workmanship of our goods. Public views or our advertisements do not constitute a contractual appearance and workmanship.
- We will not be liable for consequential harm caused by a defect, which we excluded in point 6

8. Place of Performance, place of jurisdiction, applied law

- Place of performance and obligation is Schmiedeberg, district of Obercarsdorf.
- Place of jurisdiction for contractual claims or disputes is the Amtsgericht in Dippoldwalde.
- The contractual obligations are governed by the German law. "The UN convention on contract for the international sale of goods will not be applied. "