



# General Terms and Conditions of Wiedemann GmbH

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## 1. General scope

- a) Our sales and delivery terms shall apply exclusively. We do not recognize any conflicting conditions or conditions that deviate from our sales and delivery terms unless we explicitly consent to their validity in writing. The sales and delivery terms shall also apply if we deliver these goods to the customer in the knowledge that conflicting or deviating conditions exist.
- b) The sales and delivery terms shall also apply to all future transactions with the customer.

## 2. Conclusion of the contract

- a) If the order is to be classified as an offer in terms of § 145 German Civil Code, we may accept this offer within 14 days through a confirmation in terms of lit. b).
- b) The purchase contract shall only materialize after we have confirmed the order in writing. If the order has not been confirmed in writing prior to this, our invoice shall also be valid as order confirmation.
- c) If an order is canceled earlier than four weeks before production starts, a cancellation fee in the amount of 25% of the order costs will be charged. If an order is canceled during the last four weeks before production starts, a cancellation fee of 50% is charged for the incurred expenses. After production has started, orders can no longer be canceled.

## 3. Offers and prices

- a) Our offers, including those from our agents and sales representatives, are non-binding and without engagement unless otherwise explicitly agreed in writing in an individual case. If no prices have been agreed at the time of conclusion of the contract, our catalog prices valid on the delivery day shall apply. All prices are to be understood as exclusive of applicable statutory VAT.
- b) The documents belonging to our offer, e.g. illustrations, drawings, weights and measurements, are to be understood as only approximate. The do not represent agreed properties or granted guarantees.
- c) We reserve property rights and copyrights to cost estimates, drawings, samples and other documents. They may not be made available to third parties. If no contract is concluded, they are to be returned immediately at the customer's expense.
- d) Our prices are generally ex works (FCA), exclusive of customs, accessory import duties and applicable statutory VAT.
- e) If a delivery is supposed to only happen 4 months after conclusion of the contract, after informing the customer we reserve the right to a corresponding price increase in the event that our buying prices increase or that manufacture or distribution increase in price for reasons we are not responsible for.
- f) For deliveries in special colours, sizes and packaging units, an additional charge of minimum 10% will be added, to the prices.

## 4. Delivery, delivery costs, default in delivery or acceptance, passing of risk

- a) Delivery periods or dates are only binding for us if we have confirmed them in writing and if required permits and/or documents are available, as far as all technical questions have been settled. If this does not happen, the period shall be extended by an appropriate time. The delivery period shall be deemed met if the delivery item has left the warehouse or if the customer has been informed that it is ready for dispatch before the period has expired. Transactions for delivery by a fixed date are not concluded.
- b) If the conditions of payment are not complied with, or if we learn after conclusion of the contract that the payment claim is jeopardized by the lack of performance ability of the customer, we have the right to only carry out pending deliveries and services against advance payment or provision of a security.
- c) Events of force majeure shall entitle us to postpone the delivery for the duration of the impediment plus a reasonable start-up time or to withdraw from the contract, due to the not yet fulfilled part, in whole or in part. Strikes, lock-outs, scarcity of resources, or other unpredictable and inevitable circumstances that make it impossible for us to deliver in time in spite of reasonable efforts shall be considered equal to force majeure. We will have to provide proof for this.
- d) If we have agreed with the customer in writing that we will only deliver the goods on his request, the customer must request all of the goods within 6 months after conclusion of the contract.
- e) If the customer falls into default in acceptance or if he culpably breaches other cooperation duties, e.g. the duty to request in terms of lit. d), we shall be entitled to claim the damage caused by this including any possible additional expenses. In this case the purchase price claim shall be due on the date the customer is notified that the goods are ready for dispatch. Further claims shall remain unaffected.
- f) If the prerequisites of section lit. e) are at hand, the risk of accidental loss or accidental deterioration of the purchased goods shall be transferred to the customer the moment he falls into default of acceptance or default of the debtor.
- g) The risk is transferred to the purchaser at the latest upon handing over the goods to the hauler or carrier, even if the transport is carried out by our employees or if it is carried out as partial deliveries, also if free delivery has been agreed.
- h) Partial deliveries shall be admissible as far as they are deemed reasonable for the recipient. We reserve the right to cancel part of or complete orders if the concerned products can not be delivered anymore.
- i) For retailers a net minimum order value of 120.00€, for wholesalers a minimum order value of 300.00€ per delivery applies. An extra charge for small quantities in the amount of 10.00€ is charged for orders below this minimum order value.
- j) Domestic deliveries (land-based) are delivered free if the net value of the goods is at least 700.00 €. If the net value of the goods is less than 700.00 €, the actual delivery costs will be charged. When the order amounts to more than 4 pallets a lift gate delivery charge of 25.00 € is applied per shipment. Deliveries to German islands will incur additional freight charge.
- k) For international deliveries, the delivery up to the German border will be free, and the freight charges from the border to the recipient are to be paid by the customer. Alternatively, the actual delivery costs will be charged.
- l) For deliveries to Austria and Italy a lump sum of 6 % of the order value. If the order value is less than 700.00 €, the actual delivery costs will be charged. Lift gate delivery charge 25.00 €.
- m) All of the above-mentioned delivery charges are to be understood as exclusive of applicable statutory VAT.
- n) International deliveries may be invoiced as 100% advance payment at any time.
- o) All deliveries plus statutory toll.

## 5. Payment and default of payment

- a) Unless otherwise agreed in writing, payments need to be made net without discount within 30 days of the invoice date.
- b) If the customer has agreed to a SEPA Payment Mandate, the encashment takes place by direct debit 10 days following the date of the invoice with a 3% trade discount on all discountable amounts. The Pre Notification Period is shortened to 5 days. The customer is responsible for ensuring that the funds needed for the payment and the relevant service fees are available in the account to be debited at the time of the debit. The customer is liable for expenses due to a rejected encashment or back posting of a debit, except the reason for the rejected encashment or back posting is in the responsibility of Wiedemann GmbH.
- c) If the payment date is exceeded, we shall be entitled to charge interest for default in the amount of 6% above the current base rate of the German Central Bank [„Deutsche Bundesbank“], or the actual incurred costs if they are higher. Any cash discounts or bonuses that might have been granted shall be canceled the moment the default of payment occurs.
- d) If the customer is in default with an invoiced amount, or if doubts regarding the customer's solvency occur or become known, we shall be entitled to demand the immediate payment of all open accounts and to revoke any times for payment allowed.
- e) The customer shall bear all expenses and costs for letters of credit, except the processing fee that is charged by German banks.
- f) The customer may only offset against uncontested claims or claims recognized by declaratory judgment. To the same extent, a right to refuse performance and a right of retention shall also be excluded. Offsetting against other uncontested claims or claims recognized by declaratory judgment shall only be possible with our consent.
- g) In case of non-acceptance of ordered goods, we shall be entitled to charge cancellation costs in accordance with item 2.c). (The customer shall be entitled to prove that the damage this caused us is lower than this lump sum, or that we do not have suffered any damage at all).
- h) Our deliveries are covered by trade credit insurance. We shall be entitled to report data that is relevant to the credit to the insurer in the course of the processing of the transaction, and to only deliver to the extent of the insured amount. At the latest 90 days after the due-date of a payment, we assign the claim to collection. Collection data will also be reported to the insurer.

## 6. Retention of title

- a) The delivered goods shall remain our property until all claims that we have gained or will acquire in the future based on the business relationship with the customer have been paid in full.
- b) The customer undertakes to treat the goods subject to retention with care and to insure them, at his expense, sufficiently and in particular against damages by fire, water and theft at their replacement value.
- c) In the case of attachments or other interventions from third parties, the customer must forthwith inform us about this in writing so that we may file an action under § 771 German Code of Civil Procedure. If third parties are not able to reimburse us for the judicial and extrajudicial costs for an action under § 771 German Code of Civil Procedure, the customer is liable for the loss occurred.
- d) The customer shall be entitled to resell the purchased items in the regular course of business. However, he shall already now assign to us all claims which he accrued against his buyers or third parties from resale, independently of whether the purchased items were processed or unprocessed at the time they have been resold, in the amount of the final invoiced amount of our claim (including applicable statutory VAT). The purchaser shall remain authorized to collect these receivables even after the transfer of the claim. Our authorization to collect these receivables ourselves shall remain unaffected hereof. However, we shall undertake to refrain from collecting these receivables as long as the purchaser meets his payment obligations, does not fall into default of payment and, in particular, as long as no petition to institute insolvency proceedings has been filed and payments have not been suspended. If this is the case, we may demand that the purchaser inform us about the ceded claims as well as about their debtors, that he inform us about any facts necessary for their collection, that he hand over to us the pertinent documents and that he inform the creditors (third parties) about that cession.
- e) Any processing or transformation of the purchased goods by the purchaser shall always be carried out on our behalf. Should the purchased goods be processed with other objects that we do not own, we shall acquire joint ownership of the new item in the ratio of the value of the purchased items (final invoiced amount including applicable statutory VAT) to the other processed objects at the time of the processing. For the rest, the same shall apply for the items generated by the processing as for the purchased items delivered under reserve.
- f) Should the purchased items be mixed inseparably with other objects that we do not own, we shall acquire joint ownership of the new item in the ratio of the value of the purchased items (final invoiced amount including applicable statutory VAT) to the other mixed objects at the time of the mixing. Should the mixing be carried out in such a way that the item of the purchaser has to be regarded as the main item, it shall be deemed agreed that the purchaser shall proportionately transfer co-ownership to us. The purchaser shall hold the sole or joint ownership thus gained on our behalf.
- g) Should the realizable value of our securities exceed the claims to be secured by more than 10 %, we undertake to release the security interests we are entitled to upon request of the purchaser; the selection of the securities to be released shall be carried out by us.

## 7. Exchange, notice of defects

- a) Standard products can be exchanged within 10 days after receipt, provided that they are unused and free of defects, that we have been notified of the exchange in writing including the reasons for the exchange, and that there are no reasons at hand that would make the return unacceptable for us. The purchase price minus the incurred freight costs and 15% of the net purchase price as an administrative charge will be credited to the customer upon return of the undamaged goods. The return transport will be carried out at the customer's expense and risk. Custom-made products are non-returnable.
- b) Notices of defects shall only be considered if they are submitted in writing immediately, however no later than 8 days after receipt of the goods. Kind and extent of the defects as well as the invoice number need to be indicated for this. For justified notices of defects, we shall only be obligated to deliver goods free of defects step by step against return of the rejected goods. Any claims to compensation for damages or the right to withdraw from the contract shall be excluded. Return shipments shall only be admissible if we have agreed in advance and in writing.

## 8. Liability

- a) The purchaser's claims for defects presuppose that he has complied with his obligations of examination and notice of defects in accordance with § 377 German Commercial Code. This shall only apply if the transaction is a commercial transaction for the customer.
- b) If a material defect of the goods is at hand, we shall be entitled to rectify the defect or to deliver goods free of defects (supplementary performance) at our discretion. If one of the two kinds of supplementary performance is impossible or disproportional, we shall be entitled to refuse this. We may also refuse supplementary performance as long as the customer does not meet his payment obligations towards us to the extent that corresponds to the part free of defects.
- c) If the supplementary performance is impossible or fails, the customer shall be entitled to choose between a reduction of the purchase price and withdrawal from the contract in accordance with the legal provisions.
- d) Unless otherwise stipulated in lit. e), any other claims of the customer, for whatever legal reason, shall be excluded. This applies in particular to claims for compensation for damages outside of the purchased items as well as for lost profits and for claims that are not based on the defectiveness of the item.
- e) The exclusion of liability as stipulated in lit. d) shall not apply if an exclusion or limitation of the liability has been agreed for damages arising from injury to life, limb or health that are based on a deliberate or negligent breach of duty of a legal representative or vicarious agent of the user. The exclusion of liability shall also not apply if an exclusion or limitation of the liability has been agreed for other damages that are based on a deliberate or grossly negligent breach of duty of the user or on a deliberate or grossly negligent breach of duty of a legal representative or vicarious agent of the user. As far as we culpably breach an essential contractual obligation, the liability is not excluded but limited to the predictably damage typical for the contract. For the rest, it shall be excluded in accordance with the provisions under lit. d). Finally, the exclusion of liability shall also not apply in cases of acceptance of a guarantee and of warranties of quality if a defect covered by this induces our liability. For cases of reimbursement of expenses, the above shall apply correspondingly.
- f) The limitation of liability according to lit. b) and c) shall not apply towards a customer who is a consumer. The limitation of liability according to lit. d) and e) shall apply towards a customer who is a consumer with the proviso that the limitation of liability only applies to claims for compensation for damages.
- g) The limitation period for claims for defects starts with the handover of the goods to the customer. h) As far as we give application-technical advice to our customers by courtesy and free of charge, we do so to the best of our knowledge, however, we do not assume any liability for the advice. The advice does not release the customer from testing our products for their suitability for their intended purpose on his own responsibility. For the rest, item 8.e) shall apply.

## 9. Third party industrial property rights, data protection

- a) For custom-made products manufactured according to the customer's wishes or templates, the customer is liable towards us for the fact that the working drawings he provides do not intervene with third party rights and that the executions do not violate any copyrights, industrial property rights or other rights of third parties. If claims are raised against us for the violation of such rights, the customer is obligated to indemnify us in this respect.
- b) The seller shall be entitled to store, process and transmit data concerning the trade and payment transactions with the customer.

## 10. Place of performance, place of jurisdiction, and applicable law

- a) Deggendorf shall be the place of performance.
- b) If the customer is a merchant or a corporate body under public law, either D-94469 Deggendorf or the customer's registered office, at our discretion, shall be the place of jurisdiction for any and all current and future claims arising from the business relationship including bills receivable and check receivables.
- c) The same place of jurisdiction shall apply towards a merchant if the customer does not have a domestic place of general jurisdiction or if he has moved his place of residence or his habitual abode abroad after conclusion of the contract.
- d) The business relationship shall exclusively be subject to German law and German jurisdiction. The validity of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be explicitly excluded.
- e) The present translation is furnished for the customer's convenience only. The original German text of the Terms and Conditions (Allgemeine Geschäftsbedingungen der Wiedemann GmbH) is binding in all respects.