

General Terms of Delivery and Payment (GTDP)

1. Conclusion and contents of the contract

Supply agreements will only be concluded at the following conditions, also if we will not expressly point out this fact in the future in case of continuous business relationship. Any deviating conditions of the customer are only applicable, if and insofar we accept them in writing. Latest by accepting the delivery or the first partial delivery, the customer agrees to the order confirmation and with the exclusive application of these GTDP. All quotations are non-binding.

Any deviations from this contract need to be confirmed by us in writing. If any provision of these GTDP are or become invalid, all other provisions remain applicable. The contracting parties will replace an invalid provision by another which comes nearest to the invalid provision in regards to its economic success.

The customer is only allowed to assign claims resulting from the contract to third parties after our previously written consent

2. Prices

Our prices are applicable including packaging plus value added tax.

If any order-related costs for energy, raw and auxiliary materials, staff, freight or public charges change after the conclusion of the contract, we are entitled to change the prices for deliveries which have not yet been executed.

3. Shipment, Packaging

The shipment will be performed free of charge, net from an order of 100,000 pieces on. We only pay the freight cost up to the objective provided in the contract. Any additional freights, special packaging desired by the customer and such, which are due to the special quality of the goods, are born by the customer. We make returnable packaging available on loan and it remains our property. If the packaging is not returned within 3 months in perfect condition, carriage paid and free of charge, the complete packaging value will be charged. Packaging invoices shall be paid immediately without any deduction.

4. Transfer of risk

The risk will pass to the customer as soon as the goods are dispatched from the supplier or are made available to the customer. In case of transportation damages or delivery of wrong material due to confusion of the freight carrier, the customer has to inform the freight company in order to take any necessary measures. When taking back goods, the customer carries the risks until the receipt of the goods in the supply plant.

5. Acceptance

If the acceptance has been agreed according to special conditions, the acceptance in the supply plant will be performed at the cost of the customer. If the goods are not accepted even after expiry of a reasonable extension, the goods are regarded as accepted as soon as they are dispatched from the plant.

6. Excess or short deliveries, tolerances

Deviations with regards to production or dispatch in weight and number of pieces of up to 10 percent - for special products up to 30 percent - are allowed concerning the whole order quantity as well as concerning each partial delivery. The DIN tolerances are applicable for complaints of goods according to DIN standards.

7. Warranty, liability

Any complaints regarding the weight, the number of pieces as well as any obvious defects need to be immediately indicated in writing, however, latest two weeks after receipt of the goods, hidden defects need to be indicated in writing immediately upon their detection. If the customer does not put through the complaint of the defects in time, and if he does not make samples of the rejected goods available, any claims arising from the deficiencies shall become invalid. Any substantive handling of a complaint does not represent any waiver of the compliance of these regulations. Any warranty claims, even due to hidden damages, become time-barred latest 6 months after delivery. For any justified complaints, the customer is entitled to a free-of-charge replacement delivery or a credit note against return of the rejected goods at our choice. If we refuse the remedy of defects or if we fall into arrears, the customer can specify an appropriate extension and upon its unsuccessful expiry he can demand the cancellation of the contract or the reduction of the remuneration. Any further claims of the customer from the law and contract in particular of damages which do not concern the delivered goods, are excluded, except from claims which are based on intention or gross negligence.

Due to an inadequate partial delivery, it is not possible to demand a replacement of the entire delivery or of the other partial deliveries.

We can refuse the removal of damages, as long as the customer does not fulfil his obligations at an appropriate level.

For technical advice about application and processing options, about our products as well as all other indications related to it by us or persons acting for us, we are only liable provided an expressive written promise, that the customer has given the information which were necessary for the proper advice.

The inspection, if the ordered or proposed goods are suitable for the intended use of the customer, would be the obligation of the customer. Therefore, we do not assume any guarantee for the suitability.

Guaranteed properties need to be expressly designated as such in detail in writing. If any guaranteed properties are missing, we at most are responsible according to item 2 and 3. We shall be liable for compensation only if the guarantee pursued the purpose to secure the customer against the suffered damage.

8. Tools, samples, protective rights of third parties

Also, by remuneration of shares of cost for tools, such tools remain our property, irrespective of any possible model protection claims of the customer. The tools will solely be used for the deliveries to the customer, as long as he fulfils his obligations of acceptance and payment. If a year has passed since the last delivery, we are entitled to other uses. We can scrap the tools three years after the last delivery. Any samples, on which a delivery has been based upon, shall only be deemed as an approximate basis of the delivery. If deliveries have been performed according to drawings or any other indications of the customer and if any property rights of third parties are violated hereby, the customer will hold us harmless from any claims. In case of infringements of the contract by the customer, his property rights are not opposed to a proper use of the goods by us.

9. Delivery deadlines

The delivery deadlines are decisive for the date of the delivery ex works. They only apply approximately; they are extended appropriately, if the customer does not comply with his obligations. Also in case of postponements, we are only in default if a written reminder has been received. In case of the promise of expressly binding delivery periods and delivery dates, the customer can withdraw from the outstanding part of the order upon unsuccessful expiration of an appropriate grace period, if the partial fulfilment of the contract is not of any interest for him. Any claims for damages due to non-performance or delay in performance are excluded.

If we are hindered in the fulfilment of our obligations by unforeseen circumstances, which were not avoidable in spite of reasonable precautions, the delivery period will be extended by the period of the hindrances. This also applies for labour disputes, disruptions of operations of our subcontractors including the freight carriers, disturbances due to measures by the public authorities and disruptions of the traffic routes. If the delivery or performance is impossible as a result of such circumstances, we shall be free from the obligation to deliver without liability for damages. If the customer proves that the subsequent delivery is without interest for him due to the delay, he can withdraw from the contract with the exception of further claims from the customer.

Call-offs and specifications of individual partial deliveries shall be performed for possibly equal periods and quantities and timely, that a proper production and delivery within the contract deadline is possible. If the term for the partitioning has not been determined, three months are deemed as agreed. If the goods are not called off or not called off in time or as specified, we are entitled to specify an appropriate grace period and to withdraw from the contract after its expiry or to claim compensation for non-performance. If a call-off period is determined, we are not obliged to deliver beyond the expiry of such period.

10. Basis for the credit

If, after the conclusion of the contract, we become aware of circumstances which are suitable to reduce the credit worthiness of the customer, all our receivables will become payable immediately without consideration of the bills of exchange, outstanding deliveries will only be executed against advance payment. If the requested advance payments are not made, we can also withdraw from the contract after the unsuccessful expiry of an appropriate grace period or claim compensation for non-performance.

We are also entitled to visit the stocks of the customer, and to demand the goods that are under retention of title against taking into account the value of utilization and to seize the goods in a way which suits appropriate to us at the expense of the customer, and prohibit the resale of the goods under retention and to demand the announcement of the credit businesses.

11. Retention of title

We retain the title to all delivered goods as well as to the products of the things which are possibly produced by machining or processing them (reserved goods) until all the claims of the seller to which we may be entitled now or in the future against the customer based on our business association. The customer is obliged to stock and mark the goods separately which are under retention of title.

The customer will perform any processing or treatment, without any obligations for us resulting hereof. If the customer processes goods under retention together with other goods, then we will be jointly entitled to the ownership of the new item as a proportion of the value of the new item in relation to the value of the processed goods under retention at the invoice value of the other goods at the time of processing or treatment.

The customer will transfer his co-owner's shares to us possibly emerging from the combination, mixing or blending of the delivered goods with other goods.

The customer will store all objects in our possession for us with the due care of prudent businessman.

The Customer may only sell the goods subject to retention of title and the products resulting from the processing, combination and mixing thereof in proper business transactions either in return for cash payment or specification of a payment target subject to retention of title.

Transfer by way of security, pledging and other disposals that endanger our rights, are not allowed.

On concluding the contract of sale the customer assigns as security to us all claims which he has under the resale or on any other legal basis concerning the goods under retention amounting to the value of the resold goods or of the return on sales if they did not attain the value of goods. If the goods under retention are sold by the customer together with other goods, the customer will assign the purchase price claim for the goods under retention in full or in case of previous processing or treatment of the goods which do not belong to us amounting to the value of the processed goods under retention. If such goods are not sold at an overall price, the customer will assign the purchase price claim amounting to the value of the goods under retention, which are the object of this purchase.

As long as the customer fulfils his obligations, the assignment shall be treated as a dormant assignment and the customer shall be empowered to collect the claim. Enforcement of the retention-of-title provisions and a request for their surrender according to these conditions shall not be deemed withdrawal from the contract.

If the value of the securities exceeds our accounts receivable by more than 20 %, the customer is entitled, to demand the release of the security. The customer must inform us immediately of any claims of third parties to the reserved goods and assigned claims by transferring the documents which are necessary for an intervention. The customer bears the cost for the intervention.

12. Offsetting, withholding

The customer is only entitled to set off any amounts against our claims for payment or against payments, if our counterclaims are explicitly recognized by us in writing or legally determined.

13. Non-observance of terms of payment

If the customer does not meet the terms of payment, the following applies: Our accounts receivables will become immediately payable without consideration for bills of exchange accepted, received by the customer to settle ceded claims, need to be forwarded immediately to us.

The customer is not allowed to sell the goods in our sole or co-ownership according to item 11 without our approval and has to hand them over to us upon our request. Our request for surrender is not deemed as a withdrawal from the contract.

We are entitled to demand interest on arrears amounting to 4% above the corresponding discount rate of the Deutsche Bundesbank. After the unsuccessful expiry of an appropriate grace period, we are entitled to withdraw from the contract or to claim compensation for non-performance.

14. Place of fulfilment, place of jurisdiction

The place of fulfilment for the deliveries is the plant determined by us for the execution of the contract. The place of fulfilment for the payments is Marktredwitz. The place of jurisdiction is Marktredwitz.

15. Law

The laws of the Federal Republic of Germany shall apply. The application of the laws regarding the international purchase of moveable objects and about the conclusion of international sales contracts about movable items has been excluded.

AWK Verschlüsse GmbH & Co. KG