

General terms and conditions (AGB)

for the company
Euroimpex
import - export - handel GmbH
[import - export - trade LLC]
Blumenstr. 15
D-71254 Ditzingen

1. **Scope.** These general terms and conditions apply exclusively; we do not accept contrary or deviating terms from the buyer unless we explicitly approve their validity in writing. These general terms and conditions apply even if we make delivery with knowledge of contrary or deviating terms from the buyer.

These general terms and conditions do not apply for transactions that the buyer arranges as a consumer – and thus for a purpose that can be attributed to neither its commercial nor its independent occupational activity (§ 13 of the BGB [German Civil Code]).

2. **Offers.** Our offers are non-binding and become binding only upon our confirmation or the execution of the order. Changes to our offers by the buyer require our explicit confirmation in writing.
3. **Prices.** Our prices are to be understood as ex warehouse if nothing is stipulated otherwise. To the extent that nothing is provided otherwise, the statutory sales tax is not included in our prices. Sales tax at the statutory rate is shown separately on the invoice on the day of billing.

We reserve the right to modify our prices in the context of the general trend for market prices. We always bill at the price applicable on the day of delivery. In the case of a price increase, the buyer is entitled to withdraw from the contract within 14 days after notification of the price increase has been provided.

4. **Specimens and samples.** If nothing is stipulated otherwise, specimens of goods and samples apply only as a rough guideline for the characteristics of the related product. As a result, unavoidable deviations caused by production provide no grounds for claiming defects.
5. **Delivery.** The delivery of our products takes place in standard packaging that is customary in the industry (for example, sacks, cartons) with the weight determined by us. Excess deliveries and short deliveries of up to 5% are considered as conforming to the contract for loose and packaged goods.

Even if we bear the costs of transportation, the risk passes to the buyer as soon as the goods have been transferred to the transportation company, or as soon as they have left our warehouse. The buyer is required to make claims for losses in transport directly to the corresponding transportation company within the periods provided for doing so.

If the buyer falls into default in acceptance, or if he culpably violates other cooperation obligations, then we are entitled to demand compensation for the losses that arise as a result, including any additional expenditures. We reserve the right to make additional claims.

If a fixed delivery date is not explicitly stipulated, the delivery dates that we provide are only to be considered approximate, without guarantee for strict adherence to them. If we are in default with the delivery obligation, prior to withdrawal or prior to making claims for compensation for damages, the buyer is required to provide a reasonable grace period instead of performance.

Effects resulting from act of God, war, civil war, lack of raw materials and energy, strike, lock-out, operational and transportation disruptions, as well as similar unforeseeable, unpreventable occurrences not caused by us, release us from the obligation to deliver for the duration of these effects and to the extent of their impact. If these effects are not merely temporary in nature, and no later than after 3 months, we are entitled to withdraw from the contract in whole or in part, without claim for compensation for damages on the part of the buyer.

6. **Warranty and liability.** Defects, incorrect deliveries and quantity deviations of more than 5% that can be identified by reasonable inspections are to be objected to in writing without delay, and no later than 10 days after receipt of the goods.

For justified objections, we will provide additional deliveries for quantity shortages. Apart from that, we are entitled to cure by eliminating the defects or by exchanging the goods, at our election. We bear the costs of cure only to the extent that they are not increased because the buyer moved the goods to a location other than the delivery location.

If the cure fails, then the buyer is entitled to demand withdrawal or reduction of the purchase price, at his election.

Goods that are the subject of complaint may not be used without our approval. If they are used nevertheless, the buyer bears the full risk of incorrect manufactures and other consequential damages. Apart from samples taken by the buyer that are necessary for the inspection of the goods, goods are taken back only if they are still in their original condition and in the undamaged original packaging.

If the buyer is entitled to demand delivery or cure from us on the one hand, and to withdraw from the contract or demand compensation for damages instead of performance or reimbursement for expenditures on the other hand, then we can request that the buyer exercises his rights within a reasonable period. If the buyer does not comply with this request in a timely manner, we are no longer obligated to deliver or cure. According to the statutory provisions, we are liable if the buyer makes claims for compensation for damages that are based on intent or gross negligence. To the extent that we are accused of no intentional breach of contract, liability is limited to foreseeable losses that typically occur.

We are also liable according to the statutory provisions if we culpably breach a material contractual obligation; in this case, the liability is limited to foreseeable losses that typically occur.

Liability as a result of culpably causing personal injuries remains unaffected, as do the mandatory provisions of the products liability law. To the extent that one of the preceding cases does not exist, claims for compensation for damages by the buyer due to delay or impossibility is limited to the amount of the purchase price for the delayed or remaining part of our delivery.

In all remaining cases our **liability is precluded**.

The limitation period for claims for defects amounts to 12 months from the transfer of risk. The limitation period in the case of a supplier recourse according to §§ 478, 479 of the BGB remains unaffected.

7. **Terms and conditions of payment.** To the extent that nothing is stipulated otherwise in the contract, the purchase price is due for payment within 30 days after the invoice date without deductions. A discount is granted only according to explicit written agreement.

In the case of a default in payment by the buyer, we are entitled to charge default interest in the amount of 8 percentage points more than the prime rate according to § 247 of the BGB. In addition, we reserve the right to claim default losses that exceed this amount.

Payments that we receive are applied to the buyer's open accounts payable in the order that they originated. The repayment date resulting from this repayment provision is controlling for discounts.

Payments to us are therefore only valid when they are provided in cash directly to our chief executive officer in exchange for a receipt, or to one of the postal checking accounts or bank accounts specified by us. We only accept transfers and checks based on prior agreements and always only on account, but not in lieu of payment, and furthermore transfers only if they are eligible for discount.

Offsetting purchase price accounts receivable against other uncontested or legally binding counter claims is precluded without our approval. Also precluded is the exercise of the right to refuse performance and rights of retention against purchase price accounts receivable.

For doubts regarding the buyer's solvency, in particular for payment arrears, we can demand prepayments or collateral for additional deliveries, as well as withdraw terms of credit granted. We reserve the right to make additional claims.

8. **Place of performance.** Place of performance for all obligations from contracts with us is 71254 Ditzingen in Germany.
9. **Retention of title.** We retain title to the goods that we deliver as long as we are still entitled to payment claims from the business relationship with the buyer. The buyer is not entitled to pledge the goods before settling completely with us, or to assign them as collateral to third parties. For access by third parties, in particular for pledges of the subject matter of the purchase, the buyer is required to provide notice to us without delay by registered letter for preventing claims for compensation for damages on our part for the purpose of eliminating the access.

For behavior by the buyer that is contrary to the contract, in particular for default in payment by the buyer, we are entitled, at the buyer's expense, to demand the temporary surrender of the goods to which we hold title, even without exercising the right to withdraw and without providing a grace period, regardless of all other rights and claims to which we are entitled according to these terms and conditions and according to the statutory provisions.

The buyer is entitled to resell the goods in the ordinary course of business. He hereby assigns to us all accounts receivable from the resale of goods in the amount of the final invoice for our account receivable (including sales tax). The buyer is authorized to collect these assigned accounts receivable. Our authority to collect the accounts receivable remains thereby unaffected. Upon request, the buyer is obligated to make known to us the assigned accounts receivable and the parties that owe them, to provide the information and documents necessary for collection, and to notify the parties that owe the assigned accounts receivables about the assignment.

The retention of title remains effective even if the goods are processed and/or mixed. In this case, we acquire co-ownership in the proportion of the invoiced value of our goods to the value of the other materials. A processing of the goods by the buyer is always carried out for us. If goods subject to the retention of title are mixed in this manner with the buyer's objects, such that the buyer's objects are to be considered the main object, then the buyer transfers to us pro-rata co-ownership and safeguards the co-ownership that arises for us. Upon a sale of a processed or mixed object to which we are entitled to co-ownership rights, the buyer assigns to us the accounts receivable that arise as a result in the amount of our co-ownership share, and apart from that in accordance with the preceding paragraph.

If the goods are delivered outside of Germany, or taken outside of Germany by the buyer, and if the purchase price at this point in time has not yet been paid in full, then the buyer is obligated to perform the deeds and provide the declarations that are necessary to ensure that the retention of title endures in the country of destination. If this is not possible, the buyer is required to grant to us upon request an actual security interest comparable to the retention of title in the amount of the outstanding purchase price according to the law of the country of destination, or to provide collateral in some other way.

10. **Information and technical advice.** We provide processing tips, information and technical advice according to our best knowledge on the basis of our experience. A reference or consulting contract is not established by providing such information without a corresponding written agreement. Providing information does not free the buyer from the burden of performing his own inspections and tests. The buyer is responsible for observing statutory and official requirements when using our goods. Liability for information and technical advice is precluded according to the requirements of the provisions in number 6.
11. **Other.** If one or more provisions of these general terms and conditions are invalid in whole or in part, it does not affect the validity of the remaining provision(s) or the contract as a whole.
12. **Applicable law, contract language and court of jurisdiction.** German law is applicable to the exclusion of the UN Convention on Contracts for the International Sale of Goods (UN Sales Law/CISG). The contract language is German. The German court with jurisdiction for Ditzingen has exclusive jurisdiction for complaints in connection with contracts with us. In addition, the plaintiff in each case is also entitled to appeal to the courts with general jurisdiction over each defendant.

February 2006