

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY of the Erwin Früh GmbH Company As of 05/2018

Erwin Früh GmbH, Vorstadtstr. 61-67, D-73614 Schorndorf

I. Scope of application:

1. The present Terms and Conditions shall be effective towards entrepreneurs, legal persons under public law, or special public funds, only.
2. These present Terms and Conditions shall apply exclusively. In addition, solely the legal provisions shall be applicable unless we give our express written consent to opposing or deviating terms of sale. The present Terms and Conditions shall be applicable even if we render our services without any reservations despite being aware of opposing terms of sale.
3. The present Terms and Conditions shall apply to all business dealings with the purchaser even if they are not expressly mentioned in future contracts.

II. Prices and Terms of Payment:

1. Unless express price agreements were made, the prices applicable on the day of shipment or collection shall apply to our deliveries.
2. Unless otherwise agreed, our prices are "ex works" excluding packaging and shipping costs (refer to III.3). These costs will be charged separately. The applicable value-added tax will be added to the prices.
3. Unless otherwise agreed, our invoices are payable within 30 days after the date of invoice. For payments within 14 days, a cash discount of 2 % is granted. The purchaser will be in default with payment if the purchase price is not paid within 30 days after delivery.
4. Payment by cheque shall be deemed made only after cashing of the cheque.
5. Set-off by the purchaser is possible only against approved, uncontested counterclaims or counterclaims recognized by declaratory judgment. The purchaser is entitled to a right of retention if it is based on the same contractual relationship.

III. Delivery Time, Shipment, Delay in Delivery, Partial Delivery:

1. The delivery time shall be deemed kept if a notification is given within said period stating that the goods are ready for shipment or that the contractual goods left the plant.
2. Shipment will be effected on the basis of the applicable freight rate. The costs for express shipment at the purchaser's request shall be borne by the purchaser. If shipment is made using our own vehicles, a lump sum will be charged according to our applicable price list.
3. Compliance with the delivery time requires timely and proper satisfaction of the contractual obligations by the purchaser.
4. We are not liable for delay in delivery and

performance due to force majeure. In this event, we are entitled to postpone our delivery by the period of the impediment plus a reasonable starting period and to resign from the contract in whole or in part with regard to the part not yet satisfied.

5. The provisions regarding force majeure shall also apply to difficulties in procurement of materials occurring subsequently, delayed or incorrect delivery by our suppliers, interruption of operations, strike, lock-out, measures regarding monetary policy or trade policy, or other measures by public authorities, etc., affecting us or our sub-suppliers. This does not apply if we accepted the risk of procurement or if the circumstances are due to a failure to assume responsibilities or to take precautions on our part, on the part of our legal representatives or vicarious agents.
6. We are responsible for the aforementioned circumstances to the aforementioned extent, only, if they occur during a default already existing.
7. We undertake to inform the purchaser as soon as possible about beginning and end of such impediments. In case of a revocation according to No. 5, we undertake to immediately refund payments already made regarding the part of the contract affected by the revocation.
8. We are entitled to partial delivery and partial performance if this is not detrimental to use.

IV. Transfer of Risk:

1. Risk is transferred to the purchaser at the latest upon dispatch of the contractual items and, in fact, even if partial deliveries are effected or if other services are performed by us.
2. If delivery is delayed for reasons which are in the purchaser's responsibility, risk is transferred to the purchaser on the day of readiness for shipment.
3. At the purchaser's request, the goods are insured as from transfer of risk at the expense of and to the extent requested by the purchaser.

V. Reservation of Title:

1. Delivery is effected with reservation of title.
2. Until full payment of the purchase price as well as payment of all other deliveries within the contractual relations with the purchaser, we reserve the title to the delivered goods (extended reservation of title). This provision is effective even if payments regarding particularly specified goods are made.
3. During the period of extended reservation of title, i.e. until the customer has paid for the goods in full, it is our right to terminate the contract under § 449 section 2 BGB [German Civil Code] and demand the return of all goods, including those the purchaser

has already paid for.

4. The purchaser is not entitled to pledge the goods to third parties or to assign them by way of security.

Sale is only allowed in the course of ordinary business operations unless otherwise expressly agreed in writing.

5. If the goods delivered by us are passed on, the purchaser transfers all claims resulting therefrom including all ancillary rights to us irrespective of whether the goods are passed on after or without being machined and processed, alone or together with other items. The transfer is effected regarding the share of the goods delivered by us in proportion to the total claim. The purchaser is entitled to collection of the claim until revoked.

6. As long as the reservation of title exists, any machining and processing of the supplied goods as well as any combination with other items for us is effected without imposing any obligation on us and without loss of our title.

If the purchaser processes or combines the supplied item with other goods, we are entitled to a title to the new item in proportion to the value of all goods to be processed and / or combined at the time of processing and / or combination. The new item resulting from the combination shall be deemed reserved goods in terms of these provisions.

7. The purchaser herewith assigns to us by way of security all claims obtained by the purchaser in respect of the reserved goods towards third parties. The purchaser undertakes to notify us immediately of any pledging or other impairment of the reservation of title by third parties.

8. Should the value of the existing security exceed the secured claims by more than 10 %, we will surrender securities at our discretion if requested by the purchaser.

9. The purchaser's right to possess the reserved goods expires if the purchaser fails to comply with the contractual obligations.

VI. Missing Creditworthiness, Default in Payment, Termination of Contract:

1. All our claims become due immediately if the payment terms are not complied with or if other circumstances emerge which are likely to reduce the purchaser's creditworthiness according to our due assessment of the circumstances. In this event,

we are entitled to perform outstanding deliveries against advance payment, only, or to require provision of a security.

2. If the purchaser fails to pay on due date, we are entitled to charge interest amounting to the applicable bank rates for overdraft credits but at least 8 percentage points above the base lending rate without having to furnish any further proof. The right to claim another damage caused by

default shall be reserved.

3. If the purchaser gets into arrears, we are entitled to forbid resale of the supplied goods and to require return of the supplied goods or return of the indirect possession in the supplied goods at the expense of the purchaser. In this event, we are herewith authorized irrevocably by the purchaser to enter the purchaser's premises, to take back all supplied goods, and to utilize them in the best possible way after prior warning by private sale for the purpose of appropriation to the unsettled damage due to non-performance deducting any arising costs.

4. Moreover, we are entitled to revoke any granted authorization for collection regarding the claims which are due to us on the basis of the extended reservation of title (see above VI.5). In this event, the purchaser undertakes to inform its purchasers immediately about the assignment of the claim to us and to provide us with the information and documents required for collection.

5. If the contractual relations are terminated due to default in payment or other reasons for which the purchaser is responsible, we are entitled to claim damages amounting to a lump sum of 15 % of the order value without having to furnish any further proof. We reserve the right to furnish proof of a higher damage. The purchaser reserves the right to furnish proof that no damage or a significantly lower damage occurred.

VII. Warranty:

1. Warranty claims are subject to a limitation period of 12 months as from delivery of the item. This provision does not apply if longer limitation periods are prescribed in Section 438 I No. 2 (items for buildings), Section 479 I (recourse claim), and Section 634 a (structural defects) BGB [German Civil Code].

2. If the purchaser is a merchant, defects are to be complained about immediately according to Section 377 HGB [German Commercial Code]. If the complaint is not made in due time, no warranty claims arise.

3. Entrepreneurs who are non-merchants have to complain about obvious defects within 14 days after receipt of the goods. For defects which are not obvious at the time of delivery, the period starts upon detection of the defect. If the complaint is not made in due time, no warranty claims arise. The burden of proof that the complaint was made in due time after its detection lies with the purchaser.

4. At the purchaser's discretion rework, subsequent delivery, or subsequent performance (supplementary performance) is effected free of charge for all those items and services which show a defect within the limitation period - irrespective of the operating time - the cause of which had already existed when the risk passed.

5. The type of supplementary performance selected by the purchaser is not binding if the costs exceed the costs of the other type of supplementary performance by more than 25 % and if the other type of supplementary performance can be expected of the purchaser without any considerable disadvantages when taking into account the value of the item in faultless condition and the significance of the defect.

6. If supplementary performance fails, if it is refused by us, or if it is unreasonable, the purchaser may withdraw from the contract or reduce remuneration – notwithstanding any claims for damages according to VIII.

7. If a notice of defect is made, the purchaser is entitled to retain payments to an extent which is in reasonable proportion to the respective defects. The purchaser may retain payments, only, if a notice of defect is made which is undoubtedly regarding its justification. If the notice of defect was given wrongfully, we are entitled to claim compensation of the costs incurred by us from the purchaser.

8. The purchaser cannot claim compensation for vain expenses.

9. Warranty claims cannot be asserted in case of minor deviation from the agreed quality, minor impairment of the fitness for use, normal wear or damage occurring after passing of risk due to faulty or negligent treatment, excessive use, inadequate operating equipment, or due to special environmental conditions which are not assumed under the contract. If the purchaser or third parties perform improper modifications or repair work, no warranty claims can be asserted for the latter and the consequences resulting therefrom either.

10. Claims of the purchaser due to expenses required for the purpose of supplementary performance, in particular transport costs, tolls, labour, and material costs, are excluded insofar as they occur due to the fact that the delivered item has been subsequently transported to another place. This provision is not effective if the transport corresponds to the intended use.

11. Recourse claims of the purchaser towards us can be asserted only insofar as the purchaser did not make any arrangements with its purchaser exceeding the legal warranty claims.

12. A guarantee is given or a procurement risk is assumed only if expressly agreed in writing.

VIII. Other Claims for Damages:

1. Claims for damages according to the German Product Liability Act are not affected by these Terms and Conditions. This shall also apply for damage claims due to breaches of data protection regulations.

2. In case of injury to life, limb, or health, our liability is subject to the legal provisions.

3. Our liability for other cases of damage is as

follows:

- a) unlimited according to the legal provisions if we, our legal representatives, or our executive staff violate(s) material contractual obligations wilfully or by gross negligence;
- b) limited to the typical damage which was already foreseeable when concluding the agreement if
 - (1) we, our legal representatives, or our executive staff violate(s) material contractual obligations by slight negligence or if our other vicarious agents violate material contractual obligations wilfully or by gross negligence;
 - (2) we, our legal representatives, or our vicarious agents violate(s) other contractual obligations wilfully or by gross negligence.
- c) The claims according to No. 3 b are subject to a limitation period of one year after the legal beginning of the limitation period up to a maximum period of three years after their appearance unless they are caused wilfully or fraudulently.
- d) The provisions in No. 3 b and 3 c also apply to our legal representatives and vicarious agents if direct claims are asserted against them.

IX. Storage of Data:

Company-related data of the purchaser are saved and processed according to the provisions of the General Data Protection Regulation (GDPR) and the German Data Protection Act.

X. Applicable Law, Place of Performance, and Place of Jurisdiction:

1. German law shall apply to the present Terms and Conditions and the entire legal relationship of the parties. Application of the UN Sales Convention shall be excluded.

2. Unless otherwise agreed, the place of performance for all obligations shall be Schorndorf / Germany (our registered office).

3. If the purchaser is a merchant entered in the commercial register, a legal person under public law, or a public special fund, the local competent court at our registered office in Schorndorf / Germany shall have jurisdiction over all disputes, in particular complaints filed against the purchaser.

4. The above provision also applies in respect of other purchasers which are not merchants, legal persons under public law, or a public special fund if they do not have a general place of jurisdiction in the Federal Republic of Germany.

5. If the purchaser transfers its residence or regular place of abode to a place outside the area of application of the Federal Republic of Germany after conclusion of the contract, the place of jurisdiction shall be Schorndorf nonetheless. This provision is effective even if the residence or regular place of abode of the purchaser is not known when filing a complaint.