

General Sales and Delivery Conditions for Industrial Companies
of
Richard Wöhr GmbH
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Scope of application

1. We, the company Richard Wöhr GmbH, value maintaining orderly and friendly relationships with our customers. Therefore, upon agreement these General Terms and Conditions form the basis for all contracts with our customers, including future agreements.

We do not accept any contrary or deviating conditions of the customer unless we have expressly agreed to them in writing.

Our General Terms and Conditions apply only to companies, legal persons under public law, and special funds under public law. If the customer does not fall into one of these categories, then statutory provisions apply.

General provisions

2. The contractual partners shall promptly confirm oral agreements individually in writing.
3. Our offers are always non-binding. Orders shall only become binding following our order confirmation or execution. The customer shall be bound to its order until receipt of the order confirmation or execution of the order, and at the longest 2 months.
4. The information and images included in brochures, catalogues, and written documents are typical nutrition values used in the industry unless we have expressly designated them as binding information. Our information does not release the customer from its obligation to review a product's suitability for the planned use. We reserve the right to make technical changes at any time without notification. Any liability related to advising on technical applications is hereby excluded.

Long-term and call-off agreements, pricing adjustment

5. Indefinite agreements can be terminated by either contractual partner with a notice period of 6 months.
6. If there is a significant change to wage, material, or energy costs for long-term agreements (agreements with a term of over 12 months and indefinite agreements), each contractual partner is entitled to request an appropriate pricing adjustment in consideration of these factors.
7. If no binding order quantity is agreed, our calculations are based on the non-binding order quantity (target quantity) expected by the customer for a specific time period. If the customer purchases less than the target quantity, we are entitled to increase the unit price accordingly.
8. For call-off delivery contracts, we must be informed of binding quantities at least 4 working weeks before the delivery date if not otherwise agreed.

We reserve the right to produce parts in advance (max. of the total quantity). No further technical changes will be allowed to such parts. Additional costs incurred due to a late call-off or subsequent changes to the call-off by our customer which we approve regarding scheduling or quantities shall be borne by the customer; additional costs shall be based on our calculations.

Confidentiality

9. The customer shall use all documents (including samples, models, and data) and knowledge it receives from the business relationship only for our joint purposes and shall treat them with the same care as its own documents and knowledge, maintaining confidentiality towards third parties if we have designated them as confidential or if there is an obvious interest in keeping them confidential. All documents prepared by us are considered our intellectual property and are subject to confidentiality. They may not be provided to third parties without our express approval, in particular not for tendering purposes.
10. This obligation shall not apply to documents and knowledge that are generally accessible, or that were already known to the customer upon receipt without its being obligated to confidentiality, or that were transmitted to the customer by a third party entitled to do so, or that were developed by the customer without using confidential documents or knowledge of our company.

Drawings and descriptions

11. If we provide the customer with drawings or technical documents regarding goods to be delivered or their manufacturing, these shall remain our property. We reserve all rights to any patents, utility models, or registered designs granted.

Samples and production materials

12. Manufacturing costs for samples and production materials (tools, moulds, templates, etc.) shall be invoiced separately from the goods to be delivered, unless otherwise agreed. This also applies to production materials that must be replaced due to wear. Ownership of these shall only be transferred to the customer following express agreement.
13. We will bear the costs for maintenance and proper storage and the risk of damage or destruction of the production materials.
14. If the customer suspends or ends our collaboration during the production period for samples or production materials, all manufacturing costs incurred up to that point shall be borne by it.
15. Even if the customer has paid for production materials, they will remain our property at least until the Delivery Contract has been processed. One-time costs, for instance to manufacture production materials, should generally be understood as cost shares. Cost shares do not include design and intellectual services or development work. Therefore, the customer shall not receive ownership, but rather only a right of use shall be transferred to the customer following full payment.

The customer is entitled to request the production materials if an agreement has been reached regarding the time and costs of handover, and if it has fully fulfilled its contractual obligations.

We will decide what type of production materials to use to carry out an order.

The customer is obligated to ensure that third party property rights are not infringed upon by its specifications, and shall indemnify us against any third-party claims.

16. We will store the production materials for 3 years after the last delivery free of charge. If the customer requests a longer storage period by us, it shall bear related costs.
17. Samples shall be understood as functional samples or prototypes for initial sample approval.

Prices

18. Our prices are provided in euros, if not otherwise agreed, and do not include VAT.

Packaging, freight, shipping and insurance, as well as special services (such as customs and delivery abroad) shall be calculated based on actual costs incurred.

The minimum net order value is 75 euros.

Payment conditions

19. If not otherwise agreed, all invoices are due for payment within 30 days from the delivery and invoicing date, free of charge, through bank transfer. Wage work is due immediately for payment (net). Other payment methods are only accepted upon agreement; clause 23 shall remain unaffected.

Unjustified discounts and other reductions shall be requested after the fact.

20. If we have delivered partially faulty goods, and if this is not disputed, our customer is still obligated to pay for the non-faulty goods, unless it would verifiably have no interest in a partial delivery. Furthermore, the customer can only offset counter-claims that have been established in a court of law or that are undisputed.

21. If deadlines are not met, we are entitled to invoice default interest in the statutory amount.

22. Other claims and rights due to delayed payment shall remain unaffected. In particular, in case of delayed payment we can suspend fulfilment of our obligations until we receive payment, following written notification to the customer.

If the customer falls into default for more than 10 days for an agreed instalment payment, the entire remaining amount is due immediately.

23. Checks and bills of exchange shall only be accepted by agreement, on a provisional basis, and with the condition that they are eligible for discounts. Discount charges shall be calculated from the date on which the invoiced amount was due. There shall be no guarantee for prompt submission of bills of exchange or checks or for the submission of a bill protest.

24. If it becomes clear after the contract is concluded that our payment claims may not be met due to the customer's inability to pay, we can refuse service and provide the customer a reasonable time period in which it may pay for each individual delivery or pay a security. If the customer refuses to do so or if the time period passes without response, we are entitled to withdraw from the agreement or request claims for damages.

Delivery

25. If not otherwise agreed, we will deliver "ex works". In order for us to comply with the delivery deadline or delivery term, the customer must fulfil all of its contractual obligations and duties. This also includes prompt receipt of any provided parts.

Our shipping notification or our notification that goods are ready for pick-up shall be considered decisive for compliance with the delivery deadline or delivery term.

26. The delivery term shall begin when we send out our order confirmation, and shall be extended appropriately if the requirements of clause 55 are met.

Delivery deadlines indicated are non-binding unless we have expressly confirmed them in writing as the „binding delivery deadline" or have come to a binding agreement.

27. Partial deliveries are permitted to a reasonable extent, and will be invoiced separately.

Additional or reduced deliveries of up to 10% based on the order quantity due to production circumstances, and at least 1 piece, are permitted; both with respect to the entire quantity and the individual partial quantities. The overall price will change according to the scope of the changed quantity.

We expressly reserve the right to deliver goods that deviate from the order due to technical progress, in particular in terms of design and material. However, goods must conform to at least the agreed quality standard and otherwise be reasonable for the customer.

28. We reserve the right to deliver decreased quantities of specially produced goods or wage labour on delivered parts due to process-related reasons (e.g. for set-up parts).

For small and mass-produced parts, we generally will accept no liability for scrap and shortages of up to 3% respectively of the total quantity. We will only replace or reimburse the customer for missing parts if

their delivery is accompanied by a delivery slip signed by us, and if the risk for missing parts has been transferred to us.

Shipping and transfer of risk

29. The customer must promptly accept goods which we have reported are ready for shipment. Otherwise, we are entitled to send them or store them at the cost and risk of the customer, at our discretion.
30. Unless otherwise specifically agreed, we will select the means of transportation and transport route.
31. Risk shall be transferred to the customer when goods are handed over to the railway company, freight forwarder or shipper, or at the beginning of storage, and at the latest when goods leave our plant or warehouse, even if we have taken over delivery.

Delivery default

32. If we foresee that goods cannot be delivered within the delivery term, we will inform the customer of this, inform it of the reasons for the delay, and indicate the expected delivery date if possible.
33. If the delivery is delayed due to one of the reasons indicated in clause 55 or due to an action or omission on the part of the customer, an extension of the delivery period appropriate for the circumstances shall be granted.
34. Even if a warning is sufficient or is not required by law, we will only fall into default after the end of a reasonable grace period, issued in writing. The customer is only entitled to withdraw from the agreement if we are at fault for failing to comply with the delivery deadline and it has provided us with a grace period which we have not fulfilled.

Retention of ownership

35. We reserve ownership to delivered goods until all of our claims resulting from the business relationship with the customer have been fulfilled.
36. The customer is entitled to sell these goods in the normal course of business as long as it fulfils its obligations to us under the business relationship promptly. However, it may not pledge reserved goods nor transfer them as securities. It is obligated to ensure our rights in case of credited resales of reserved goods.
37. If the customer violates its obligations, in particular by falling into default of payment, we are entitled to withdraw from the agreement and take back products after setting a reasonable grace period; statutory provisions regarding the dispensability of a deadline shall remain unaffected. The customer is obligated to return the products.
38. The customer hereby already assigns to us all claims and rights resulting from the sale of goods or goods leased to the customer to which we retain ownership rights by way of security. We hereby accept this assignment.
39. If the customer carries out any processing of reserved goods, this shall be done on our behalf. If reserved goods are processed or inseparably mixed with goods not belonging to us, we will obtain co-ownership to the new goods proportional to the invoiced value of the reserved goods in relation to the other processed or mixed goods at the time of processing or mixing.

If our goods are combined with other movable objects to form a single object or are irreversibly mixed, and if the other object is considered the primary object, the customer shall assign proportional co-ownership to us if it owns the main object. The customer shall retain ownership or co-ownership on our behalf. Otherwise, the same provisions apply to goods produced through processing, combination, or mixing as for reserved goods.

40. The customer must inform us promptly regarding any enforcement measures by third parties over reserved goods, claims assigned to us, or other securities, including any documents necessary for intervention. This also applies to other types of interference with our rights.

41. If the value of the existing securities exceeds the secured claims by a total of more than 20 percent, upon request by the customer we are obligated to approve securities of our choice.

Material defects

42. The properties of the goods shall be determined exclusively based on the expressly agreed technical delivery specifications and other requirements. We will not accept any legal guarantees.

If we must deliver products in accordance with drawings, specifications, samples, etc. of the customer, the customer shall accept the risk of products being suitable for their planned use. The time of the transfer of risk according to clause 31 shall apply to the contractual condition of goods.

Complaints cannot be submitted regarding colour shade deviations from the template for colour reproductions in any printing process. Requirements in this respect (such as stricter colour shade approvals) must be expressly agreed upon.

43. There shall be no claims for defects in case of unsuitable or improper use, incorrect assembly or commissioning by the customer or third parties, normal wear and tear, incorrect or negligent handling or climatic influences that were not foreseen by the agreement. In addition, we are not responsible for the consequences of improper modifications or repairs by third parties completed without our consent. The same applies to defects that only reduce the value or suitability of the goods to a minor extent.

Materials provided for processing must be free from substances that would interfere with the surface treatment and technologically suited to the planned treatment. We will accept no guarantee for specific dimensional tolerances, adhesive properties, colour-fastness and corrosion prevention or visual properties unless these properties have been expressly promised.

We are not obligated to test or review provided parts and other materials (such as data storage media, drawings...) supplied by the customer or a third-party agent.

If complaints have been submitted about goods, these must be returned to us promptly; we will pay transportation costs if the defect complaint is justified. If the customer is at fault (incorrect / duplicate order), we are entitled to invoice related costs.

44. Defect claims shall expire after 12 months. This does not apply if the law requires longer terms, in particular for defects in a structure and in goods typically used in construction which caused the defect. Clause 1 also does not apply to damages resulting from an injury to life, body or health, cases of intentional actions or gross negligence or violations of cardinal contractual obligations (these are obligations that make the fulfilment and proper implementation of the agreement possible and which the customer should regularly be able to trust will be fulfilled) by our legal representatives or managing employees, or to any obligations to reimburse expenses for the purpose of supplementary performance in accordance with Section 439 para. 3 BGB (German Civil Code).

45. For the customer to exercise guarantee rights, it must have properly fulfilled its inspection and complaint obligations under Section 377 HGB (German Commercial Code). The customer must submit complaints for obvious defects after goods are received at the intended location, and for hidden defects promptly after they are discovered.

46. If the parties have agreed to an acceptance procedure or initial sample testing, no complaints may be made regarding defects the customer should have found during a careful acceptance or initial sample testing process.

47. We must be given an opportunity to review the defect complaints. Goods about which complaints have been submitted must be sent back to us promptly; we will pay transportation costs if the defect complaint is justified. If the customer does not fulfil these obligations or makes modifications to the goods about which complaints have been submitted without our approval, it will lose any claims related to material defects.

48. In case of justifiable, timely defect complaints, we will either repair the goods about which complaints have been submitted or deliver defect-free replacements.

If we do not fulfil these guarantee obligations or do not do so in accordance with the agreement within a reasonable time period, the customer may set a final deadline in writing within which we must fulfil said obligation. After this deadline, the customer may request a reduction in the price, withdraw from the agreement or make necessary repairs or improvements itself or have them completed by a third party at our cost and risk. If the customer or a third party makes the repairs or improvements successfully, all of the customer's claims shall be considered compensated with reimbursement of any costs incurred.

49. The customer shall only have legal recourse claims against us if it has not concluded an agreement with its own purchaser beyond the statutory defect claims. Furthermore, a reimbursement of costs may not be included in the recourse claims if expenses increase because the goods have been moved to another location after our delivery, unless this is related to the intended use of the goods.

Other claims, liability

50. If not otherwise indicated in the following, other and further claims by the customer against us are excluded. This applies in particular to claims for damages due to a violation of contractual obligations and prohibited actions. We shall not be liable for damages not incurred by the delivered goods themselves. In particular, we shall not be liable for lost profits or other pecuniary losses suffered by the customer. In case of wage labour, our maximum liability will be the value of our own services for the delivery.
51. The above limitations of liability do not apply to intentional actions, gross negligence by our legal representatives or managers, or culpable violations of cardinal contractual duties. In case of culpable violations of cardinal contractual duties, we will be liable only for typical and reasonably foreseeable damages - except in cases of intentional actions or gross negligence by our legal representatives or managers.
52. The limitation of liability shall furthermore not apply in cases of liability for personal injury or material damage to privately used objects under the Product Liability Act caused by faults in delivered goods, nor to the culpable violation of cardinal contractual duties under clause 44. In case of culpable violations of cardinal contractual duties, however, we will only be liable for typical and reasonably foreseeable damages - except in cases of intentional actions or gross negligence by our legal representatives or managers.

This limitation of liability shall also not apply to injuries to life, body, or health or to assured properties which are not provided, if and insofar as the assurance would have secured the customer against damages not caused to the delivered goods themselves.

Finally, it also shall not apply if we have concluded a purchasing agreement with the customer and are obligated to pay required expenses for supplementary performance under Section 439 para. 3 BGB.

53. If our liability is excluded or restricted, this also applies to the personal liability of our employees, managers, workers, legal representatives, and agents.
54. Statutory regulations on the burden of proof shall remain unaffected.

Force majeure

55. Force majeure, strikes, unrest, official measures, deliveries not provided by our suppliers and other unforeseeable, unavoidable, and serious events shall free the contractual partners of these obligations for the duration of the disruption and to the extent of their impact. This also applies if these events occur at a time when the contractual partner in question is in default, unless it caused the default intentionally or through gross negligence. The contractual partners are obligated to promptly provide necessary information and adjust their obligations to changing circumstances in good faith and whenever reasonable.

Export controlling

56. In recognition of American and other applicable (in particular German) export controlling laws, the customer hereby undertakes to obtain all necessary export licenses or other documents at its own cost before exporting products or technical information it has received from us.

The customer is furthermore obligated not to sell such products or technical licenses to persons, companies, or in countries either directly or indirectly, to export or re-export them, or to deliver or otherwise transfer them if this violates American or other (in particular German) laws or ordinances. The customer hereby undertakes to inform all recipients of these products or technical information of the necessity to follow these laws and ordinances. It shall obtain all licenses and export and import documents required for its use of the products at its own cost. The denial of an export permit shall not entitle the customer to withdraw from the agreement or request claims for damages.

Final provisions

57. If not otherwise indicated in the order confirmation, our company headquarters is considered the place of fulfilment.
58. Our headquarters is the place of jurisdiction for all legal disputes, including in relation to checks and bills of exchange. We are also entitled to file suit at the customer's headquarters.
59. Only the law of the Federal Republic of Germany shall apply to the contractual relationship. The United Nations Convention on the International Sale of Goods (CISG) of 11th April 1980 is hereby excluded.
60. If one or more provisions of these sales and delivery conditions is invalid, this shall not affect the validity of the other provisions.