

# General Terms & Conditions

1. **General**

These General Conditions of Sale shall be governed by the laws of the Federal Republic of Germany and are deemed to be applicable only vis-à-vis businesses as defined in § 310 BGB >German Civil Code<. Any and all legal transactions shall be executed in accordance with the following terms and conditions. For contracts with fully qualified merchants, these terms and conditions shall also apply to any and all future legal transactions, and no further agreement to this effect shall be required. We herewith expressly object to any conflicting terms or conditions of sale issued by our contracting partners. By receiving the goods and/or accepting the services at the very latest, the contracting partner declares his acceptance of these terms and conditions of sale hereunder also if and when he has explicitly objected relative and prior thereto. Collateral agreements shall be null and void.
2. **Quotation, acceptance of order and withdrawal**
- 2.1 Our quotations are calculated without engagement and subject to prior sale.
- 2.2 We do not assume any liability for the correctness of the manufacturer's specifications.
- 2.3 In the event that our acknowledgement of order deviates in any way from the order placed by the Purchaser, such deviation is deemed to have been accepted by the Purchaser unless he objects in writing within a period of 8 days after the date of issue of the order acknowledgement.
- 2.4 If and when the Purchaser withdraws from the contract without legal grounds, we shall be entitled to claim a lump-sum compensation amounting to 15 % of the net contract amount, unless the contracting partner can render proof to the effect that there has either been no damage at all or the damage occurred has been significantly less than such lump-sum amount. This provision shall apply without prejudice to our right to make a detailed calculation of any damage incurred.
3. **Terms of delivery, delivery and dispatch**
- 3.1 Terms of delivery are specified without engagement. Any unforeseen events beyond the Supplier's reasonable control such as, for instance, war, danger of war, riots, use of force by Third Parties vis-à-vis individuals or objects, sovereign intervention including measures implemented on account of monetary or commercial policies, labour disputes at the Supplier's facilities, his contractors' businesses or carriers, disruption of intended transport lines, fire, raw material and energy shortage as well as other operational disturbances such as software failure at the Supplier's facilities or at his contractors' businesses shall extend the agreed terms of delivery and delivery deadlines by the duration of time such impediment continues. The same provision shall apply if and when the Supplier is already in default of delivery or if the Supplier was not aware of any of the aforementioned events that impede performance, although they had already persisted prior to concluding the contract. The Supplier shall immediately inform the Purchaser of any of the aforementioned impediments should any such case arise.
- 3.2 In case of default and after granting a reasonable period of grace, the Purchaser shall have the right to withdraw from the contract if and when no notification to the effect that the goods are ready for dispatch has been delivered before such term expires. In all other respects, the provisions under item 2.4 shall apply.
- 3.3 In the event that delivery is delayed due to the Purchaser's culpable conduct, and as far as liability as defined under Item 3.2 above is concerned, the notification of the readiness for dispatch is deemed to be equivalent to dispatch. In such cases, the goods shall be stored for the account and at the risk of the Purchaser. The Supplier retains the right to charge storage fees amounting to 1% of the net value of the goods, such sum to fall due for each individual month commencing.
- 3.4 Delivery shall be effected in accordance with the industrial standards determined by Bernd Richter GmbH. Part deliveries shall be admissible.
- 3.5 Call-off orders are deemed to be established for a maximum period of 12 months. Upon expiry of such 12 months' period we retain the right to deliver the remaining goods as may still be on stock or to cancel such remaining stock and re-debit bulk discounts, if any, that might have been granted.
4. **Prices, purchase commitment, return of goods, and payment**
- 4.1 The goods shall be invoiced on the basis of the ruling prices applicable in each individual case plus the legally valid VAT rate.
- 4.2 Any default on the part of the Purchaser shall, upon fruitless expiry of a reasonable grace period granted along with pertinent notification to this effect, entitle us to withdraw from the contract or claim damages for non-performance. Without the need of rendering any proof thereof, our claim for damages shall amount to 30% of the net value of the goods. However, this provision shall not exclude our right to claim compensation for damages in excess thereof.
- 4.3 We are entitled, though not obliged, to take back goods that are returned to us by the Purchaser without any justified reason of complaint, though in perfect condition, by granting a credit note covering the purchase price less 10% , but at least € 20,-, plus VAT, to cover the administrative costs involved. Moreover and in case the goods are damaged, we are entitled to reduce the credit note by amounts attributable to the loss of serviceability. Furthermore, transport and packaging charges, if any, incurred by us may be deducted from the credit note. The deduction to compensate for administrative costs incurred shall be either increased or reduced accordingly if and when the Supplier or the Purchaser, respectively, can provide evidence to the effect that a higher or lower expenditure, respectively, has been involved.
- 4.4 Return shipments shall be effected franco domicile, including packing. The risk of transport shall rest with the sender returning the goods.
- 4.5 Unless expressly agreed otherwise, payment shall be rendered within 30 days after date of invoice without deduction or, within 10 days after date of invoice granting a discount of 2% , recent
- 4.6 We reserve the right to set off payments received against the most long-standing claim due. In case of any debts due, discounts shall not be admissible. As a matter of principle, no discount whatsoever is granted for repair orders.
- 4.7 Subject to prior agreement, we accept discountable, duly taxed bills of exchange as a consideration for fulfilling the contract. Credit notes on cheques or bills of exchange will be granted subject to receipt, and deducting costs for cheques and bills of exchange, the value date being the day the counter-value has been placed at our disposal.
- 4.8 Depending on the individual case involved, we retain the right to effect delivery only against cash payment, cash on delivery or cash in advance.
- 4.9 Irrespective of the term of any bills of exchange that may have been accepted and credited, claims shall become due and payable immediately if and when we become aware of any information that may give rise to any doubt regarding the Purchaser's creditworthiness.
- 4.10 In case of default of payment, we are entitled to charge interest on such defaulted payments amounting to at least 8% above the basic interest rate applicable at the time of such default without having to furnish evidence of any damage caused by delayed performance. Following the final reminder of payment, we are entitled to charge dunning costs to the amount of € 25.00.
- 4.11 Setting off any of our claims against counterclaims raised by the Purchaser and contradicted by us shall not be admissible. In the event that the Purchaser lodges a complaint, payments may be retained only to an amount adequately proportional to the defects ascertained. However, this provision shall apply only if and when there is no doubt whatsoever as to the justified nature of the complaint concerned.
- 4.12 The minimum ordering and call-off quantity shall be 5 pieces per item. The Purchaser's failure to comply with this provision shall entitle us to charge € 35.00 for each item for which smaller quantities have been ordered.
5. **Retention of title**
- 5.1 We reserve title to the goods supplied by us until we have received payment in full.
- 5.2 On breach of contract by the Purchaser, particularly in the event of default in payment and following fruitless reminder to this effect, we are entitled to take back and the Purchaser shall be obliged to surrender the goods concerned.
- 5.3 Neither asserting the right of retention of title nor the attachment of the goods delivered shall be deemed to constitute a withdrawal from the contract, unless either the provisions of the Verbrauchergesetz >German Consumer Law< apply or we provide express written declaration to this effect.
- 5.4 The Purchaser shall be entitled to resale of the goods delivered in the ordinary course of business. Nonetheless, he hereby agrees to assign any and all claims to the amount of the purchase price (including VAT) agreed between ourselves and the Purchaser as may accrue to the Purchaser from such resale, irrespective of whether the goods delivered are being resold without or after further processing. The Purchaser shall be entitled to collect such receivables after they have been assigned. This provision shall apply without prejudice to our right to collect such receivables ourselves. Nonetheless, we agree not to collect any such receivables as long as the Purchaser meets his obligation to pay as agreed and payment is not delayed. In the latter case, however, we shall be entitled to request the Purchaser to give notice of the claims thus assigned and to disclose the names of the debtors concerned, to furnish any and all information required for collection, to provide documentation relevant thereto and to inform the debtors (Third Parties) of such assignment accordingly.
- 5.5 Any processing or conversion of the goods by the Purchaser is deemed to be effected for the benefit of the Supplier. In the event that the goods delivered are combined with other objects not owned by us, we shall possess co-ownership in the new objects equivalent to the proportion of the value of the goods delivered to the other objects processed at the time of processing.
- 5.6 If and when the goods delivered are inseparably mixed with other objects not owned by us, we shall possess co-ownership in the new objects equivalent to the proportion of the value of the goods delivered to the other objects thus mixed. The Purchaser shall safeguard such co-ownership on our behalf.
- 5.7 The Purchaser shall neither pledge nor transfer the goods delivered by way of security. The Purchaser shall be under the obligation to immediately notify the Supplier of any attachment, seizure or other pledging by Third Parties and to furnish any and all information and documentation as may be required to protect the Supplier's rights. Executors and/or Third Parties shall be notified of the Supplier's ownership accordingly.
- 5.8 We agree to release any collateral securities due to us on the Purchaser's request to the extent the value thereof exceeds, by more than 20%, the debts to be secured and for which payment is still outstanding.
6. **Notice of defect, warranty, general limitation of liability, product liability**
- 6.1 The Purchaser's rights in the event of a defect shall be subject to due compliance with his obligation to check the goods and lodge any complaint whatsoever detected in writing as defined in § 377 HGB >German Commercial Code<.
- 6.2 The period of limitation for any and all claims filed by our customers for defect of the goods supplied by us shall expire one year after delivery. Any claims for damages and repayment of expenses as defined in § 437 Ziff. 3 BGB >German Civil Code<. Nonetheless, the term established by law shall continue to apply if and when such claims refer to any damage resulting from injury to our contracting partner's life, body or health or caused by culpable or gross negligence on the part of the Supplier, one of his legal representatives or other persons employed in pursuing their duties.
- 6.3 Our customers' rights in the event of quality defects shall be governed by the statutory provisions relative thereto, always provided that our customer shall grant an adequate period of grace of at least 4 weeks for rectification. The Purchaser shall have the right to grant a shorter period of grace in each individual case concerned if and when sufficient proof can be furnished to the effect that a period of 4 weeks would constitute an undue burden. Under no circumstances whatsoever shall the grace period granted for rectification commence before the goods have been returned. In the event that only a part of the goods delivered is defective, our contracting partner's right to either cancel the contract or claim damages in lieu of performance shall be restricted to the defective part of the delivery, unless such restriction is impossible or constitutes an undue burden. We neither exclude nor restrict our liability for any damage resulting from injury to our contracting partner's life, body or health due to a culpable neglect of our duties. We shall assume liability for any other damages incurred by our contracting partners only if and when caused by intent or gross negligence on the part of the Supplier, one of his legal representatives or other persons employed in pursuing their duties. If and when the damage has been caused on account of ordinary negligence, our liability shall be limited to the infringement of substantial contractual obligations particularly relating to contract-specific and reasonably foreseeable damages. In all other respects, any claim for damages as may be filed by our contracting partner for violation of duties, unlawful acts or other legal grounds shall be excluded. The afore-mentioned limitations of liability shall not apply to the lack of any warranted quality if and to the extent such warranty was intended to protect the contracting partner against any damage not caused to the goods delivered. The provisions regarding any exemption or limitation of liability shall also apply to the personal liability of our staff members and persons employed. In any case, the aforementioned exemption from liability shall also refer to indirect damages though shall not apply to any claims lodged on the basis of the law on product liability.
- 6.4 Our contracting partner shall be under the obligation to release us from any claims for damages as may be asserted by Third Parties on account of the provisions relating to tortious acts, product liability or by virtue of any other rules or regulations concerning defects on the goods manufactured or delivered by us or by our contracting partner if and when such claims would also be justified vis-à-vis our contracting partner or are no longer justified through mere lapse of time. Proceeding from the above, our contracting partner shall also release us from the costs arising under any legal disputes as may be instituted against us on account of such claims.
7. **Repair work**
- 7.1 In the event that the Purchaser requests a cost estimate prior to the execution of repair work, such requirement shall be expressly notified. Any costs accruing for such estimate may be charged to the Purchaser's account.
- 7.2 In the absence of any report on the defects ascertained, we shall not assume any guarantee for the repair work to be carried out. Whether such repair work is carried out at our own facilities or delegated to a sub-contractor shall be left at our discretion. Dispatch shall be effected at and for the Purchaser's risk and account.
8. **Export control regulations**

In the event that the goods are intended for export, the Purchaser shall be under the obligation to check the unlimited release of the delivered goods for export. The Purchaser shall be responsible to comply with these export regulations until the goods have reached the end user. Any violation of these regulations shall be liable to prosecution.
9. **Place of performance and jurisdiction**
- 9.1 The place of performance and jurisdiction for any and all direct or indirect litigations arising under the contractual relationship shall be Wipperfürth/Germany.
- 9.2 For deliveries abroad, the place of jurisdiction, rather than being the place of the Purchaser's registered office, shall be the local court at the capital of the country where the Purchaser has his registered office.
- 9.3 In all other respects, statutory jurisdiction shall be applicable.
10. **Packaging**

Bernd Richter GmbH exclusively uses packagings that may either be reused or enable easy disposal by the Purchaser. Consequently, Bernd Richter GmbH shall be under no obligation to take back the unit packaging of the goods. Bernd Richter GmbH agrees to take back transport packagings if and when they are returned to the registered offices of Bernd Richter GmbH, Wipperfürth/Germany, free of charge.
11. **Data protection and miscellaneous provisions**
- 11.1 The company shall be entitled to process and file any data received about the Purchaser in connection with the business contacts established, also if and when disclosed by Third Parties, in accordance with the provisions stipulated under the German Law on Data Protection.
- 11.2 In the event that individual clauses of these General Conditions of Sale are or may become null and void, such invalid clause shall not affect the validity of the remaining clauses hereunder. Any such invalid clause shall rather be replaced by the corresponding standard term applicable to the line of industry involved. In the absence of any such admissible standard term of the particular industry, a corresponding statutory clause shall apply accordingly.