

General Terms and Conditions of Sale

I. Scope of application

1. our deliveries and services and purchases shall be governed exclusively by our following General Terms and Conditions of Sale. Deviating terms and conditions of customers shall only apply to us if we have expressly recognised or agreed to them in writing. Silence on our part with regard to deviating conditions does not constitute agreement with the conditions of the user. We hereby expressly object to any deviating terms and conditions of the respective customer.

2. In commercial transactions, these General Terms and Conditions of Sale shall also apply to all future business relationships. Commercial transactions also include our business relationships with merchants within the meaning of commercial law who are acting within the scope of their commercial operations, legal entities under public law and special funds under public law.

II Conditions of sale

1. conclusion of contract, delivery, liability, export control and no-Russia/Belarus clause

1.1 Our offers are subject to change and shall only become binding once they have been confirmed by us in text form (letter, fax, e-mail). Deliveries and invoicing are equivalent to confirmation in text form. Verbal and/or tacit additions, deviations or ancillary agreements also require our confirmation in text form, otherwise they are not legally effective.

1.2 By ordering goods, the customer makes a binding declaration that he wishes to purchase the goods ordered. We are authorised to accept the contractual offer contained in an order within 2 weeks of its receipt. Acceptance can be declared in text form (letter, email) or by delivery of the goods to the buyer.

1.3 Dimensions, weights, illustrations and drawings are only binding for the execution if this is expressly confirmed by us in text form (letter, email). Gross weights and box dimensions are approximate values and are not legally binding. In particular, the declarations and descriptions contained in advertising material, manuals and/or price lists do not constitute an agreement on a specific quality.

1.4 We reserve the right to make technical changes and changes in shape, colour and/or weight within the tolerances etc. applicable here. We reserve the right to make deviations in our goods which are necessary in the course of technical progress after consultation with the customer, without this giving rise to any rights against us.

1.5 In the event of delay in delivery, impossibility of performance or other breaches of duty, our liability shall be limited to intent and gross negligence, except in the event of injury to life, limb and health and in the event of breach of cardinal contractual obligations - such as compliance with delivery obligations and delivery deadlines, the obligation to pay the purchase price, the obligation to deliver free of defects and obligations to provide advice, protection and care for the purpose of using the goods in accordance with the contract. The amount of compensation to be paid by us for the aforementioned breaches of duty is limited to the foreseeable damage typical of the contract in question.

1.6 The seller shall not be liable in cases of force majeure. This includes all unforeseeable events as well as events which - insofar as they could have been foreseen - are outside the sphere of influence of the parties.

These include in particular, but are not limited to, the following events: Natural disasters such as floods, storm surges, hurricanes and typhoons as well as other storms on the scale of a disaster, earthquakes, lightning, avalanches and landslides, fire, epidemics, pandemics, epidemics and infectious diseases (insofar as such a situation has been declared by the WHO or a ministry or a risk situation of at least 'moderate' has been determined by the Robert Koch Institute), war or war-like conditions, riots, blockades, official and government orders, strikes and lockouts.

If such an event of force majeure occurs, the affected contractual partner is obliged to inform the other contractual partner immediately, at the latest within 14 days of becoming aware of the occurrence of the event and the consequences of its impairment of performance in text form.

In this case, the Seller shall be entitled to extend its delivery dates and deadlines depending on the extent and duration of the force majeure event and its consequences, without granting the Buyer a right of cancellation of the contract or a claim for damages. The Seller shall not be in default for the period of the justified extension of the delivery dates and deadlines.

Both parties are obliged to do everything in their power and reasonable to minimise the damage.

1.7 We shall be entitled to render partial services or make partial deliveries at any time.

1.8 If the Buyer intends to export or transfer the delivery item to a country or territory against which the United Nations, the European Union or the United States of America have imposed or put into force an embargo or other export or re-export restrictions or to use it for such a country or territory, the Buyer shall inform the Seller of this in writing prior to the conclusion of the contract in accordance with § 1.2. If the Buyer makes such an intention after the conclusion of the contract, such export, transfer or utilisation shall require the prior written consent of the Seller. Notwithstanding the foregoing, the Buyer warrants that it (i) complies with the relevant export control regulations, including embargoes and other sanctions in force in Germany, the European Union and the United Nations and (ii) also complies with all other foreign export control regulations, including embargoes and sanctions, provided that Germany, the European Union or the United Nations have issued regulations, embargoes or sanctions comparable to those of the countries concerned. In the event of resale of the delivery item by the Buyer, the Buyer shall ensure by appropriate agreements that these obligations are passed on throughout the entire supply chain and up to the end customer with whom the delivery item remains. In the event of a breach of this provision, the seller shall be entitled to terminate the contract with immediate effect.

1.9 The importer/buyer is not permitted to sell, export or re-export goods delivered under contracts with Franke GmbH or in connection with these contracts directly or indirectly to the Russian Federation or Belarus or to use them in the aforementioned countries. The importer/buyer shall make every effort to ensure that the purpose is not frustrated by third parties in the further chain of trade, including potential resellers. The importer/buyer shall establish and maintain an appropriate monitoring mechanism to detect behaviour by third parties further down the chain, including potential resellers, that would frustrate this purpose. Any breach of these principles shall constitute a material breach of a material element of this Agreement and the exporter/seller shall be entitled to seek appropriate remedies, including but not limited to: Cancellation of the contract; and to demand liquidated damages equal to the price of the exported goods. The importer/buyer shall promptly inform the exporter/seller of any problems in the application of the above agreements, including any relevant third party activities that may frustrate the purpose of the agreement. The importer/buyer shall provide the exporter/seller with such information on compliance with the obligations within two weeks of the simple request.

2. transfer of risk on dispatch

All consignments are for the account and at the risk of the commercial customer. With regard to the transfer of risk, this shall also apply if carriage paid delivery has been agreed. The risk of accidental loss or accidental deterioration shall pass to the commercial customer upon handover to the forwarding agent or the company commissioned with the dispatch.

3. payments Retention of title

3.1 Our terms of payment can be found in our offers and invoices. In the event of default, default interest in the amount of 8% above the respective base interest rate of the European Central Bank is hereby agreed.

3.2. We reserve title to the delivery item until receipt of all payments from the business relationship with the customer. The retention of title shall also extend to the recognised balance insofar as we book claims against the customer on a current account basis.

3.3. The customer is entitled to resell and process the delivery item in the ordinary course of business; however, he hereby assigns to us all claims in the amount of the final invoice amount (including VAT) which accrue to him from the further processing or resale against his employees or against third parties, irrespective of whether the delivery item has been resold without or after processing. The customer is authorised to collect this claim even after its assignment. Our authorisation to collect the claims ourselves remains unaffected by this; however, we undertake not to collect the claims as long as the customer duly fulfils his payment obligations and is not in default of payment. In this case, we may demand that the customer informs us of the assigned claim and its debtor and provides all information necessary for collection, in particular whether the assigned claim is disputed, as well as hands over to us the associated documents and informs the debtor (third party) of the assignment.

3.4 If the delivery item is inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of the delivery item to the other mixed items at the time of mixing. If the mixing takes place in such a way that the customer's item is to be regarded as the main item, it is agreed that the customer shall transfer co-ownership to us on a pro rata basis. The customer shall keep the sole ownership or co-ownership for us and treat it with care.

3.5 The repossession of the delivery item by us shall not constitute a cancellation of the contract unless we have expressly declared this in writing. Seizure of the delivery item from the customer shall always constitute cancellation of the contract. In the event of seizure or other access by third parties to the delivery item, the customer must inform us immediately in writing so that we can take legal action in accordance with Section 771 of the German Code of Civil Procedure (ZPO). If the third party is not in a position to reimburse us for the judicial or extrajudicial costs of the action pursuant to § 771 ZPO, the customer shall be liable for the damage or loss incurred by us.

3.6 We undertake to release the securities to which we are entitled at the customer's request insofar as their value exceeds the claims to be secured by more than 20%, insofar as these have not yet been settled.

4 Warranty and liability

4.1 The warranty period is 2 years. Complaints about the delivery due to a material defect or incorrect delivery must be notified to us in writing within one week of receipt of the goods if the customer is a merchant. In the case of a hidden defect, we must be notified of this in writing within one week of its discovery. If the customer fails to make this notification or if the goods are processed or resold by him, the goods shall be deemed to have been approved free of defects.

4.2 The processing of our products is always at the risk of the buyer. Our technical application advice is non-binding, also with regard to any industrial property rights of third parties, and does not release the purchaser from checking the products for their suitability for his purposes. If the customer issues us with special processing instructions, we shall only be liable for compliance with these instructions; any further claims are hereby excluded.

4.3 Deviations within the tolerances customary in the industry from the masses and weights that have become part of the contract shall not constitute a defect.

4.4 If claims for damages are asserted against us by third parties due to damages which are not caused in our production area but in an area attributable to the customer, the customer shall be obliged to indemnify us against such claims.

4.5 In the event of a material defect notified in good time, which has arisen due to a breach of duty on our part and demonstrably not after dispatch, we shall initially provide replacement or rectification. If a replacement or repair is not possible, fails twice or is not provided by us or not provided within a reasonable period of time, the customer is entitled to reduce the purchase price or to withdraw from the underlying contract. Further claims are excluded to the extent permitted by law. However, the customer shall only be entitled to reduce the purchase price or withdraw from the contract if he has set us a grace period of at least 10 working days for replacement or rectification under threat of reduction or cancellation. The cancellation must be declared in writing. If the buyer chooses to withdraw from the contract due to a legal or material defect after subsequent fulfilment has failed, he shall not be entitled to any additional compensation for damages due to the defect. In all cases of a justified notification of defects, claims going beyond the claim for subsequent improvement or replacement delivery due to a breach of duty on our part towards merchants are limited to intent and gross negligence, except in the case of injury to life, limb or health. However, we may refuse to remedy justified defects as long as the customer has not fulfilled his payment obligation in the amount of the value of the service already provided, taking into account the defect.

4.6 The assertion of warranty claims has no influence on the terms of payment.

4.7 To the extent permitted by law, claims for damages arising from culpa in contrahendo, breaches of duty of care, offences and collateral breaches of duty (e.g. consulting duties) are excluded. In particular, we shall only be liable for consultancy services if a special fee has been agreed in writing.

4.8 A warranty shall also be excluded if defects in the delivered products are due to improper handling, a breach of instructions for use, a breach of the recognised rules of technology, natural wear and tear, failure to carry out maintenance, unfavourable operating conditions or interventions or modifications to the products carried out by the customer or third parties without our prior consent. The customer must provide proof that a defect is not based on this.

4.9 We shall only assume liability for a warranty of quality if we expressly declare this in writing. The above paragraph shall apply accordingly to liability for the absence of warranted characteristics in commercial transactions.

III Final provisions

1. place of fulfilment, dispute settlement, contract amendment

1.1 The place of fulfilment for all services and payments shall be our registered office in Aalen.

1.2 Disputes arising out of or in connection with this contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce before one or more arbitrators appointed in accordance with these Rules.

1.3 The contractual relationship shall be governed by German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods and the conflict of laws rules of German private international law, provided that the customer is a merchant, a legal entity under public law or a special fund under public law.

1.4 Collateral agreements, amendments and/or supplements to these General Terms and Conditions must be made in writing to be effective. This written form requirement also applies to the amendment or supplementation of this written form clause.

1.5 Should any of the above provisions be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions. In this case, the parties shall agree on a legally valid provision that comes as close as possible to the meaning and purpose of the invalid provision.

January 2025



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