

General Terms & Conditions of Sale and Delivery  
of  
Wilhelm Grillo Handelsgesellschaft, Duisburg, Hamborn

1. The General Terms & Conditions of Sale and Delivery set out below form an essential element of our written order acknowledgement, which on its own is definitive to delivery contracts. Conditions of the Customer differing from these Terms & Conditions of Sale and Delivery shall not form an element of contract even where we fail to object to them or where the Customer states that it intends to conclude or fulfil the contract only under its terms & conditions.
2. The Buyer shall accept delivery of the goods at the contractually agreed point in time. In the event of delayed acceptance, we shall be free to rescind the contract or demand damages.
3. Even in the case of delivery franco domicile, the goods travel at the Buyer's risk. The risk also passes to the Buyer if the goods are made available for collection ex-works.
4. Definitive to the calculation is the weight determined by the Sender.
5. The Buyer shall be obliged to inspect each delivery forthwith and to report any defects immediately in writing and at the latest 10 days after receiving the goods. In the case of goods requiring analysis, the notice period for complaints is extended to 20 days. In the event of delayed inspection or complaint, the goods we have delivered shall be deemed accepted.

All warranty claims, even due to concealed defects, lapse one year from delivery of the goods.

Claims of our Customer to compensation for damages are precluded. This, however, shall not apply for injury to life, limb or health based upon malicious intent or negligent breach of duties on our part or on malicious intent or negligent breach of duties on the part of our legal representatives or vicarious agents; furthermore, the liability exclusion shall in its entirety not apply to other damages based upon malicious intent or negligent breach of duties on our part or on malicious intent or negligent breach of duties on the part of our legal representatives or vicarious agents.

The liability exclusion for normal negligence in the event of other losses shall otherwise not apply if we breach material contractual duties; in this case, however, our liability is in any event limited to the typically foreseeable loss.

Claims of our Customer under the [German] Product Liability Act (*Produkthaftungsgesetz*) and other claims under product liability shall in any event remain unaffected.
6. Should the Buyer be in arrears with its payment obligations, or where circumstances arise that give rise to justified doubt as to the Buyer's creditworthiness, our claims affected thereby, even if deferred or where we are required to effect advance delivery, shall fall due irrespective of any signed bill of exchange. In such cases, we shall be entitled to then deliver only against advance payment or collateral security or, following a reasonable period of notice, to refuse any further fulfilment of contract and demand compensation and immediate release from all bill of exchange liabilities entered into in the Buyer's interests. In that case, the Buyer shall be obliged to pay the amount equating to the bill of exchange liability directly to us. Upon receipt of the amount, we shall assume an unconditional obligation to discharge the liability when it falls due. Furthermore, in the aforementioned cases, we shall be entitled to prohibit the Buyer from reselling the goods and to collect goods not yet paid for at the Buyer's expense, if we have previously rescinded the contract, or to demand collateral security.
7. In the event of delayed payment by the Buyer, we shall claim the statutory interest on arrears. We shall be permitted to demonstrate a greater loss.
8. a) We reserve title to the goods delivered until all our claims vis-à-vis the Buyer from the business relationship have been satisfied, including all claims to release from bill of exchange liabilities. This shall also apply if the price for certain deliveries identified by the Buyer has been paid.

b) Any machining or processing takes place on our behalf without obliging us and without our title thus being relinquished. In the event of processing, combination, mixing or mingling of our conditional commodities with other goods, we shall be entitled to co-title to the new item in the proportion of the invoice value of our conditional commodities to the total of all invoice values of the combined goods at the point in time of processing, combination, mixing or mingling. The new item shall be deemed conditional commodities within the meaning of these conditions.

c) The Buyer shall be entitled to sell the conditional commodities in the normal course of business. Other forms of disposal are prohibited.

d) The Buyer herewith assigns all accounts receivable from use of the conditional commodities to us in advance. If the conditional commodities are sold together with other items not belonging to us, that assignment shall only apply at the level of the invoice value of the conditional commodities sold in each case. If the conditional commodities are sold after processing, combination, mixing or mingling with other goods, or are used as material in execution of work or delivery contracts, the assignment covers only the share of proceeds corresponding to our co-title.

The Buyer shall be entitled to collect the assigned receivables only in the normal course of business. The Buyer shall notify us immediately of any seizure of the conditional commodities or the assigned receivables by third parties. The Buyer bears any costs of interventions. At our request, the Buyer shall notify the customer of prior assignment and provide us with all information and documents needed for us to assert our rights against its customers.
- e) The Buyer's authority to dispose of the conditional commodities and to collect the assigned receivables shall lapse if circumstances become known of that give rise to justified doubt as to the Buyer's creditworthiness, and upon non-adherence to the payment terms or in the event of bills of exchange or cheques being rejected. In such cases, we shall be entitled, following rescission of contract, to take possession of the conditional commodities and to enter the Buyer's business premises for that purpose. The costs ensuing from that are for the Buyer's account. We may rescind contracts if the Customer is in arrears with payments or breaches other contractual duties.
- f) If the value of the collateral securities placed with us exceeds our claims in full by more than 20%, we shall be obliged on request to release the aforementioned securities - at our discretion - to that extent.
9. Place of performance, in particular for the Customer's duty to pay, for all contracts concluded with us is our company's principal place of business. Place of jurisdiction for all disputes arising from the contractual relationship is our company's principal place of business. We shall, however, be entitled to file suit against the Customer at its general place of jurisdiction. German law shall apply to all contractual relationships under exclusion of UN purchasing law. To the extent German law refers to the law of another state or to international law, e.g. to the UN Convention on Contracts for the International Sale of Goods, that referral is explicitly rejected.