

General Terms and Conditions of WOLF Verpackungsmaschinen GmbH



§ 1 General terms

1. The goods and services and offers we provide are subject to the following terms and conditions. These terms and conditions apply to all contracts, deliveries, services and offers, including consultancy services, information, etc. Amendments to these terms and conditions shall only be effective with our written Agreement.
2. These conditions shall supersede any conditions of the Purchaser. These shall also not be construed as having been accepted, even if we do not specifically contradict them. Any general terms and conditions that correspond with those of the Purchaser shall apply, even if the remaining provisions of the Purchaser are contradicted.
3. Prices, quantities, delivery times and availability are subject to change. All purchase orders, even if they are received by agents or employees, or collateral Agreements to these conditions as well as any amendment or change to the contents of a previously confirmed order shall be held invalid unless confirmed in writing.

§ 2 Conditions of payment

1. In the absence of alternative Agreements, all prices are quoted ex factory including loading of goods at the factory but excluding packing, shipping costs and cargo insurance plus any applicable VAT. For international deliveries, the customer is liable for any import taxes and duties.
2. Unless otherwise agreed, all payments shall be made in full and without deduction of any nature to the bank account specified on the respective invoice:
40% of the purchase price shall be paid upon receipt of the order confirmation, 50% after the Purchaser was notified that the major parts are ready for shipment, and the balance within 14 days after the passing of risk and receipt of the invoice.
3. The legal regulation regarding consequences of default in payment shall apply.
4. If the Client is more than a week in arrears with payments, all remaining payments are due immediately.
5. Bills of exchange are only accepted by special Agreement and against payment of discount charges and only become effective once cashed in as payment. Cash discounts will not be granted in the event of payment by bills of exchange.
6. If the Purchaser defaults on the payment of invoiced amounts we shall have right of retention (lien) in respect of further deliveries because of our obligations under other, economically related contracts. The Purchaser may avoid any legal consequences described hereinabove by offering appropriate collateral securities.
7. Notwithstanding any provisions of the Purchaser, we are entitled to use any payments to settle the Purchaser's previous debt if we inform the Purchaser of the type of settlement. If costs and interest incurred, we are entitled to the payment of the costs first, then the interest and finally against the principal.
8. The Purchaser shall only be entitled to retain payments or to offset them against counter-claims if his counter-claims are uncontested or are legally enforceable. This does not apply to rights of retention or claims due to defects. In case of defects, Section 6 remains unaffected.

§ 3 Delivery and performance time, delays

1. The delivery period is subject to the contractual Agreement between the parties. The terms for delivery or fulfillment will only be binding after our written order confirmation. Compliance with the terms of delivery assumes that all business and technical questions have been settled between the contracting parties and the Purchaser and that he/she has fulfilled all liabilities being incumbent upon him, as for example furnishing of the necessary official certificates or licenses or payment of deposits. If this is not the case, the delivery time shall be reasonably extended. This does not apply if we are responsible for the delay.
2. The observance of the delivery deadline is subject to the condition that all required materials were received at our premises in good time. We will notify the Purchaser as soon as possible if any delays become apparent.
3. The delivery periods are deemed to have been observed if the goods have left the suppliers plant or the notification of the readiness to dispatch has been issued.
4. If the dispatch or acceptance is delayed for any reason that the Purchaser is liable for, then the Purchaser shall also be liable for any costs resulting from such delays, starting one month after the notification of the readiness for dispatch or acceptance.
5. If the delivery is delayed by reason of force majeure, labour disputes, or any other events that are beyond our control, the delivery period shall be extended by an appropriate and reasonable amount of time. This also applies within arrears. If the delivery or performance becomes impossible or unreasonable due to the aforementioned conditions, we have the right to cancel the contract in whole or in part. In these cases, Claims for compensation shall not be accepted. Force majeure means strikes, lockouts, mobilisation, war, blockades, export and import embargos, shortages in raw materials and energy, fire, serious disruption of the operation or means of transportation and any other circumstances that are beyond our control and that make the deliveries or execution unreasonably difficult or impossible, regardless of whether they occur to us, to our suppliers or to their sub-contractor. The supplier shall immediately notify the Purchaser of the start and the end of such circumstances. Buyer can demand a declaration from us whether we wish to withdraw from the contract or deliver within a reasonable period. If we do not submit a declaration the Purchaser is entitled to withdraw.
6. Partial deliveries are acceptable.
7. If we are late, the Purchaser can withdraw from the Agreement after the expiry of an appropriate extension that we have previously agreed to in the context of the applicable. In case of partial default, the purchase shall have the right to withdraw from the entire Agreement if he has a legitimate claim to refuse partial deliveries. If these provisions do not apply, then the Purchaser shall be liable for any contractual payments due for the partial delivery.
8. The provisions of Section 7 shall apply to the exclusion of any further claims arising from delayed deliveries.

§ 4 Passing of risk

Unless otherwise agreed, the risk of accidental loss or accidental deterioration of the delivered goods passes to the Purchaser when the delivery is handed over to him or to a carrier or otherwise transferred to a person for execution of the shipment, at the latest when the goods leave our plant premises. Upon acceptance or delayed request by the Purchaser or if the shipment is delayed due to reasons that do not form part of our responsibility the risk shall pass to the Purchaser at the time when the Purchaser is informed that the goods are ready for shipping. This also applies to partial deliveries.

§ 5 Retention of title

1. We reserve the title of the delivered goods until all current and future claims resulting from the Agreement and the business relationship have been settled.
2. If our right of ownership lapses due to the goods having been combined, mixed or processed, it is agreed that we acquire joint ownership of the new item to value of the invoice. The Purchaser shall safeguard the (joint) property for us free of charge. Goods to which we have (co-) ownership shall hereinafter be referred to as conditional commodities.
3. The Purchaser is entitled to process and to sell the goods in the ordinary course of business unless he is in default. Pledges or the granting of security interests in the reserved goods is not permitted. The Purchaser shall assign to us all claims, including all secondary rights, arising from the sale of the conditional goods. The seller revocably authorizes the Purchaser to collect, in his own name, any claims transferred to the seller. This authority to make collection may be revoked if the Purchaser fails to fulfil his/her payment obligations towards us in a due and proper manner.
4. The Purchaser shall inform the supplier immediately of any attachment or confiscation or other temporary injunctions issued by third parties.
5. If the Purchaser violates the terms of this Agreement - in particular delay of payments - we shall be entitled by law to withdraw from the Agreement and/or to recover the goods based on the retention of title clause. The enforcement of retention of title and any claim for repossession

shall not be deemed to constitute a withdrawal from the Agreement; we are nevertheless entitled to demand the goods from the Purchaser and reserve the right of resignation. If the Purchaser does not pay the amount due, we may exercise these rights only if we have previously set a reasonable deadline for payment or if such a deadline is unnecessary under statutory provisions

§ 6 Claims for defects

1. The Purchaser's rights with regard to defects of quality and defects of title are subject to the statutory provisions unless the Agreement provides otherwise.
2. We do not assume any warranty or liability for the suitability of the goods for the usage intended by the Buyer unless we have expressly given assurances of such suitability or where normal use is concerned.
3. The warranty claims of the buyer require that the statutory obligations to examine the goods and to give notice of defects have been observed in accordance with Section 377 HGB (German Commercial Code).
4. If the goods delivered turn out to be defective, we reserve the right to rectify the defect (rework) or to replace the goods with merchandise that is free of any defects. We shall be notified of defects immediately in writing once they are discovered. Replaced parts shall become our property.
5. After consultation with us, the Purchaser must provide us with the necessary time and opportunity to rework and replace defective items; otherwise we shall be exempt from our liability for defects. Only in urgent cases involving a risk to the safety of operations or in order to avert unacceptable losses - of which we must be informed immediately - shall the Purchaser be entitled to remedy the defect himself or have it remedied by third parties and to demand reimbursement for the resulting expenditure from us.
6. Any immediate costs resulting from the repair or replacement shall be borne by us, as far as the complaint proves to be justified, including costs of the replacement and dispatch. We also bear any reasonable costs for removal and installation and the costs of any required fitters and support staff including any reasonable travel costs.
7. The entitlement of the Purchaser to compensation shall be limited in accordance with Section 7 and is otherwise and in all other respects excluded.
8. We do not accept any liability or responsibility for unsuitable or improper use, faulty installation and/or commissioning by the Purchaser or third parties, normal wear and tear, faulty or negligent handling, inadequate maintenance, unsuitable equipment, defective construction work, unsuitable subsoil, chemical, electrochemical or electrical agents - provided that we are not responsible for such conditions.
9. If the Purchaser or a third party does not exercise proper care when carrying out the rework job, we shall bear no liability for the consequences arising there from. The same applies to changes made to the goods without our prior consent.

§ 7 Liabilities

1. If the delivered goods cannot be used by the Purchaser for the contractually agreed purpose, due to a failure on our part or as a result of ignoring or incorrectly implementing proposals and advice put forward before or after signing of the contract, or due to the violation of other additional contractual obligations, particularly with regard to operating and maintenance instructions for the delivered goods, then the claims specified in Section 6 and 7 Subsection 2 shall apply accordingly and any further claims by the Purchaser shall be ruled out.
2. We shall only be liable for losses or damages that were not suffered directly by the delivered goods (notwithstanding any legal grounds) under the following conditions:
 - a) in the event of wrongful intent,
 - b) in the event of gross negligence on the part of the proprietor / the executive bodies or senior managers or their assistants,
 - c) in the event of culpable injury to life, body, health,
 - d) in the event of defects that we have maliciously failed to disclose or whose absence we have guaranteed,
 - e) for any damages falling under the Product Liability Act.

In the event of culpable violation of significant contractual obligations (obligations, whose performance is the basis for the proper execution of the Agreement and on whose abidance the contractual partner has relied on regularly and may rely on), we shall also be liable for gross negligence by non-executive staff and in the event of slight negligence; the latter being limited to the usual contractual, reasonably foreseeable damages.

Any further claims shall be excluded.

§ 8 Limitations

The general statutory period of limitation for claims arising from defects of quality or legal imperfection in title shall be 12 months from the day of delivery if the Agreement includes a period of limitation, the limitation period shall commence with the acceptance of the work. The relevant statutory periods shall apply for compensation claims referred to in Section 7 Subsection 2. These are also valid with regard to defects in building structures or for delivery items, which are used in accordance with their usual method of use within a building structure and which have caused its defects.

§ 9 Designs

1. We reserve all rights to sketches, designs, artwork, originals, films, computer programs and so on that we produce, unless otherwise agreed in writing.
2. In the event of templates and ideas that were supplied to us by the Purchaser, our rights apply only to the part of the respective design that was prepared by us.
3. If the parties have not concluded an Agreement, we will claim compensation for any technical drawings that are not returned to us. Any use of our drawings without our consent is prohibited, specifically copying or duplication in whole or in part, or passed on to third parties.
4. We do not accept any liability with regard to infringement of patents, licensing rights, copyrights or any other protected rights belonging to third parties.

§ 10 Special duties of co-operation

1. For the necessary tests, the Purchaser is obliged to supply to us the required original objects that must be packaged by our machine or labelled or the intended packing material and any other materials free of charge. Any material provided by us shall be charged separately.
2. If the Purchaser fails to cooperate in due time, he/she shall have no right in respect of Section 3.

§ 11 Installation costs

The erection, commissioning, the installation and removal of the goods supplied by us and other services as well as the training of the Purchaser's personnel by our after-sales service shall be charged separately. These are subject to the standard cost rates provided by our general terms and conditions for installations.

§ 12 Nondisclosures

Unless otherwise agreed in writing any information submitted to the Purchaser shall be deemed confidential.

§ 13 Applicable law, place of jurisdiction, partial invalidity

1. All legal relationships between the Purchaser and us shall be exclusively governed by the laws of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
2. The place of jurisdiction for all legal disputes arising from the contractual relationship shall be the court responsible for our office. However, the supplier shall be entitled to institute legal action at the Purchaser's domicile.
3. If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.