

Section 1 General information

Our deliveries and other services shall be performed exclusively on the basis of these Conditions of Sale and Delivery. These are applicable only in relation to businesspeople, i.e. Buyers acting commercially or otherwise on a self-employed basis, but also to all future business relations, even if they are not expressly agreed upon again. If individual provisions are or become invalid, this shall not affect the validity of the other provisions. We expressly contradict deviating General Terms and Conditions of the Buyer.

Section 2 Offer and Conclusion of a Contract

- Our offers shall be subject to change without notice. Therefore contracts shall first be established once we have acknowledged the order in writing or delivered the goods. If the acknowledgement of the order deviates from the order, the Buyer must object thereto in writing within one week after receipt. Otherwise the content of our acknowledgement of the order shall be exclusively applicable.
- Supplements and amendments to the contract must be in writing to be valid.
- We shall be entitled to make technical alterations to models and materials, in so far as their suitability for use is not impaired. This particularly applies to deviations and tolerances from indicated sizes, weights and other technical details as well as samples. The information provided by us does not represent assured characteristics but rather it is descriptions or indications of the delivery or service. Otherwise written agreement is required.

Section 3 Prices and Payment

- Our prices are understood as EURO ex works plus packaging, statutory value added tax; for export deliveries customs, fees and other public charges.
- If the agreed prices are based on our list prices and the delivery only takes place four months after the contract was concluded, our valid list prices apply to the delivery.
- If nothing further has been agreed in writing, our invoices are due for payment immediately after being issued and invoice amounts must be paid without deduction within thirty days. Payment shall be deemed to be receipt of the money on our account. Cheques are excluded as a means of payment.
- If after the conclusion of the contract we become aware of circumstances that give reason to doubt the Buyer's ability to pay, we may make the delivery dependent upon advance payment of the purchase price and, if this advance payment is not made within a reasonable period set by us, cancel the contract.
- We are entitled, in spite of provisions from the Buyer stating the contrary, to offset payments initially against older debts. The Buyer will be informed about the type of offsetting used. If costs and interest has already been incurred we are entitled to offset the payment initially against the costs, then interest and finally against the main claim.
- The Buyer may only offset against counter-claims that are undisputed or have been determined to be legally valid. The Buyer shall only be authorised to exercise a right of retention to the extent that its counter-claims are based on the same contractual relationship.

Section 4 Delivery and Delivery Period

- In case of doubt delivery periods shall commence on the date of our acknowledgement of the order, but not before the Buyer has met its duties to co-operate and made any agreed down payment. Our obligation to deliver shall be suspended as long as the Buyer is in default in performing its contractual duties. The delivery period shall be deemed met, if the goods have left the warehouse or notice of readiness for dispatch has been given before the delivery period expires.
- Any extension of the originally agreed period that we are granted must be in writing. The extended period shall only be deemed reasonable, if it totals at least four weeks as from the receipt of notification of the extension granted. A longer period may be necessary in individual cases.
- Risk shall be passed to the Buyer at the time the goods are dispatched, even if we bear forwarding expenses. If dispatch is delayed for reasons not attributable to us, the risk shall be passed to the Buyer at the time of notification of readiness for dispatch. In this case we shall at the Buyer's expense take out the insurance policies demanded by the Buyer.
- Delays in forwarding caused by the carrier shall not establish any damage claims against us, unless we are guilty of intent or gross negligence. We shall assign to the Buyer any damage claims against the carrier. The Buyer shall assert directly against the carrier any claim due to transport damage.
- We shall not under any circumstances take back special packaging. In all other respects we shall only take back packaging, in so far as we are legally obliged to do so.
- We shall be entitled to make part deliveries and to deviate from ordered quantities by no more than 10%, whereby the quantity actually delivered shall always be invoiced.

Section 5 Force Majeure

We are not liable if the delivery is impossible or performance is delayed due to force majeure or other events not foreseeable when the contract was concluded - this includes in particular business disturbances of all kinds, difficulties in purchasing materials or energy, transport delays, strikes, legal lock-outs, official regulations or outstanding, incorrect or delayed delivery by suppliers, even if this occurs with our suppliers or their sub-suppliers - causing problems with the products of third parties for which we are not responsible. If such events make the delivery or performance significantly more difficult for us or impossible and the hindrance or barrier is not temporary, we are entitled to withdraw from the contract. For temporary hindrances due to force majeure, the delivery and performance periods are extended or the delivery or performance deadlines are delayed by the period of the hindrance plus an appropriate start-up period. If the hindrance lasts longer than two months, the Buyer is entitled, after setting an appropriate subsequent period with the threat of rejection, to withdraw from the part of the contract not yet fulfilled.

Section 6 Retention of title

- The goods delivered by us shall remain our property up until all accounts receivable arising from the business relationship have been paid.
- In the event that the Buyer acts in breach of the contract, particularly in the event of default in payment, we shall be entitled to take back the goods. The taking-back of goods shall not constitute a cancellation of the contract, unless we expressly give written notice of cancellation. We shall be authorised to realize the purchase item after having taken it back. Proceeds from realization shall be credited against the Buyer's accounts payable less reasonable realization expenses.
- In the event that goods under reservation of ownership are processed, this shall be undertaken for us as the manufacturer pursuant to Section 950 BGB (German Civil Code) without this giving rise to liabilities on our part. If goods under reservation of ownership are combined or mixed with other movable property, we shall acquire co-ownership of the new item in the ratio of the current market price of our goods under reservation of ownership to the value of the other processed items at the time of combining. The Buyer shall keep the newly made item in a safe place for us with ordinary care free of charge.
- The Buyer shall be entitled to resell goods in the normal course of business, unless it has entered into default in payment. Goods may only be resold under reservation of ownership, whereby the Buyer shall be additionally obliged to disclose our reservation of ownership to its purchasers. Furthermore the Buyer already now assigns to us all accounts receivable that accrue to it from the resale against its purchasers or third parties, irrespective of whether or not the purchase item was resold without having been processed or after having been processed. Without prejudice to our own authority to collect payments, the Buyer may collect assigned accounts receivable as long as it meets its contractual obligations against us.
- On request the Buyer shall hand over to us a precise list of assigned accounts receivable including the names and addresses of purchasers, the sums of accounts receivable and the dates of invoices and give all information necessary for claiming assigned accounts receivable and shall allow these to be checked. Furthermore the Buyer shall on request be obliged to disclose the assignment to its purchasers.
- If goods are inseparably combined with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the objective value of our goods to the value of the other combined items at the time of combining. If combining is undertaken in such manner that the Buyer's item is to be regarded as the main item, it shall be deemed agreed that the Buyer shall transfer co-ownership to us on a proportionate basis. The Buyer shall keep the exclusive property or joint property created in such manner in a safe place for us free of charge. To secure our accounts receivable, the Buyer shall also assign to us the accounts receivable that accrue to it against a third party as a result of goods having been connected to real estate.
- The Buyer shall be obliged to adequately insure goods under reservation of ownership for the replacement value at its own expense. We shall be entitled to demand at any time that corresponding insurance policies and corresponding written acknowledgements of premiums paid be submitted.
- The Buyer shall not be entitled to pledge as collateral security goods under reservation of ownership or accounts receivable assigned to us or transfer ownership thereof by way of security. The Buyer shall immediately notify us of levies of execution on goods under reservation of ownership or assigned accounts receivable, giving the name of the pledgee.
- At the Buyer's request we shall release collateral security granted to us to the extent that the realizable value thereof exceeds the accounts receivable to be secured by more than 20 %. We shall be responsible for selecting the collateral security to be released.

Section 7 Material defects

- The goods provided by us have the agreed characteristics as in particular described in the specifications and other documentation and are suitable for the contractually agreed otherwise normal use and have the typical quality of this type of goods. In the case of needed felt it cannot be technically ruled out that the material contains broken needle fragments. Therefore isolated inclusions of broken needle fragments shall not constitute a defect.
- The Buyer must check the goods immediately after delivery to ensure they have not been destroyed and notify us of a defect immediately in writing. If the Buyer does not provide the notification, the relevant goods are considered to have been approved unless the defect is one that is not visible on inspection. If such a defect is found later, the notification must be provided immediately after discovery; otherwise the relevant goods are considered approved even with regard to this defect.
- Material defect claims are in particular excluded

- for insignificant variances from the agreed characteristic and for only insignificant adverse effects on usability;
 - if the error is based on the fact that the Buyer or third party appointed by it has stored, transported, assembled, operated, used, changed or modified the goods incorrectly, exchanged parts or used consumables that do not comply with the original specifications to the extent to which we are not responsible for this;
 - for an infringement of the contractual checking and complaint obligation under Section 7 Para. 2;
 - for an infringement of the statutory investigation or complaint obligation under Section 377 and 381 Para. 2 of the German Commercial Code (HGB);
 - for defects that the Buyer knew about when concluding the contract; if the Buyer remains unaware of a defect due to gross negligence, it can only assert rights due to this defect if the defect was deliberately hidden or a warranty was provided for the characteristic of the item;
 - for a transaction under Art. 1 to 3 CISG, if the goods infringe technical standards, statutory or other sovereign provisions that apply in the Buyer's country or another area outside Germany to which the goods were properly sold on or used, and we neither knew nor should have known about these; we are not obliged to check the special features of international law.
- The Buyer will support us in analysing and resolving the defect by the Buyer specifically describing the problems that have occurred, providing comprehensive information and granting us the necessary time and opportunity to resolve the defect.
 - Defects are resolved as chosen by us either on-site at our business premises or by delivering goods that do not have the defect.
 - To investigate whether the goods are defective, we will choose
 - to have the goods or part of the goods sent to us for repair and subsequent return; if the goods are defective we will repay the appropriate dispatch costs; this does not apply if the costs rise because the goods are not at the place determined for proper use; chargeable or inadequately covered dispatch is not permitted - they will be returned by us;
 - A service technician will after prior agreement with the Buyer undertake the repair at the Buyer's location; the Buyer must provide the defective goods for this.
 - If a defect notified by the Buyer cannot be determined or we are not responsible under Paragraph 3 lit. b) for the defect, the Buyer will bear our costs according to the agreed or usual prices.
 - Guaranteeing characteristics must be in writing for them to be valid.
 - Lapsing depends on Section 10.
 - The exclusions and provisions of the rights of the Buyer under this Section 7 do not apply if there was malicious activity or a guarantee has been accepted for the characteristics of the item.
 - Section 9 (Liability) applies to the scope and level of liability for damages and the reimbursement of expenses made in vain due to a defect for which we are responsible.

Section 8 Legal defects

- We guarantee that the contractual use of the goods delivered by us or manufactured in the Federal Republic of Germany is not opposed for the Buyer due to the rights of third parties. In the event of a transaction under Art. 1 to 3 CISG, a legal defect only exists under the requirements of Art. 43 CISG; we are only obliged to check opposing commercial protective rights or other intellectual property for Germany. For legal defects we guarantee that we will at our choice provide a legally perfect usage option to the item or an item of equal value for the Buyer.
- The Buyer will inform us without delay in writing if third party protective rights (e.g. copyrights or patent rights) are asserted to the item. The Buyer authorises us to conduct the dispute with the third party on our own. If we use this authorisation the Buyer may of itself not recognise the claims of a third party without our consent. We will defend the claims of the third party at our own expense and indemnify the Buyer for all costs associated with defending these claims if they are not based on the duty-infringing behaviour of the Buyer (e.g. non-contractual use of the item).
- Section 7 Para. 3 lit. c) to f) and Paragraphs 7 to 11 apply accordingly.

Section 9 Liability

- Our liability for damages no matter the legal basis (e.g. impossibility, default, defective or incorrect delivery or performance, contractual infringements or tort) is restricted if the liability requires culpability from us:
 - Our liability for simple negligence is excluded if there is no infringement of a key contractual duty only the fulfilment of which permits the proper implementation of the contract, on the compliance of which the Buyer may rely and the non-fulfilment of which puts at risk the achievement of the contractual purpose (so-called "cardinal obligation"). In the event of the infringement of such a cardinal obligation, our liability is limited for simple negligence to damages that were predictable when the contract was concluded and are typical for the contract.
 - For gross negligence, our liability is restricted to damages predictable on conclusion of the contract and typical.
- If we provide technical information or advice after conclusion of the contract and this information or advice is not part of the contractually agreed scope of services that we are required to provide, this is provided free of charge and with the exclusion of all liability for negligently incorrect information or advice.
- The liability exclusions and restrictions of this Section 9 (Liability) apply to claims for damages for expenses made in vain.
- The liability exclusions and restrictions of this Section 9 (Liability) apply to the same extent in favour of our management organs, statutory representatives, employees and other vicarious agents.
- The restrictions of this Section 9 (Liability) do not apply to our liability for deliberate action, injury to life, limb or health, in the case of malicious activities, on taking on a guarantee or claims under the German Product Liability Act.
- In the event of a transaction under Art.1 to 3 CISG, the application of Art. 46 Para. 1 lit. b) CISG is excluded such that even in this case the principle of liability for contractual infringements depending on culpability remains in accordance with the law of the Federal Republic of Germany.

Section 10 Lapsing

- The limitation period
 - for claims from material or legal defects for the repayment of the fee from withdrawal or reduction is one year from submitting the withdrawal or reduction declaration; the withdrawal or reduction is only effective if it is declared within the period stated in lit. b) for material defects and the period in lit. c) for legal defects;
 - For claims from material defects that are not a matter of repayment of the fee from withdrawal or reduction, one year;
 - For claims from legal defects that are not a matter of repayment of the fee from withdrawal or reduction, two years; however, the statutory period of limitation applies if the legal defect is in an exclusivity right of a third party based on which the third party may request the handover or destruction of the items provided to the Buyer;
 - For claims not based on material or legal defects for the repayment of the fee, claims for damages or the reimbursement of expenses made in vain, two years.
- The limitation period starts subject to a contrary provision in the individual contract in cases in Para. 1 lit. b) and c) according to the statutory requirements, in particular the defect liability right to be applied, in the event of lit. d) from the time when the Buyer becomes aware of the circumstances that give rise to the claim or should have become aware without gross negligence.
- Lapsing occurs at the latest at the end of the maximum periods stated in Section 199 of the German Civil Code (BGB).
- However the statutory limitation periods apply for claims for damages and the reimbursement of expenses made in vain for gross negligence, the cases stated in Section 9 Para. 5 and for claims due to a defect in the cases of Section 438 Para. 1 No. 2 BGB and Section 634a Para. 1 No. 2 BGB.

Section 11 Dispute Settlement, Place of Performance, Jurisdiction, Applicable Law

- Gebr. Röders AG does not participate in a dispute settlement procedure within the meaning of § 36 VSBG.
- The place of performance for all present and future claims arising from the business relationship is Soltau. If the Buyer is a businessman, legal entity under public law or special assets under public law or if there is no general court of jurisdiction in the Federal Republic of Germany, the exclusive court of jurisdiction for all disputes relating to the individual contracts involving these T&Cs is the court responsible for Soltau. For lawsuits by us against the Buyer, any other statutory court of jurisdiction also applies. These court of jurisdiction agreements are determined exclusively by the law of the Federal Republic of Germany. The binding statutory provisions on exclusive courts of jurisdiction are unaffected by this provision.
- The law of the Federal Republic of Germany excluding UN procurement law (CISG) as part of German law applies if nothing further has been determined in individual cases in these T&Cs. Section 12 CISG remains unaffected.

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