

General Terms and Conditions of W. Ulrich GmbH (valid of 01.01.2019)

I. Scope of application, deviating terms, partial invalidity

1. These conditions apply to business transactions with entrepreneurs according to § 14 BGB, legal persons of public law and special assets within the public law. All transactions and deliveries regarding this group of people are handled exclusively based on the following conditions.

2. Should, as an exception, something else apply in a particular instance – for example customer`s purchase conditions – an explicit written confirmation by us is necessary. The delivery of goods does not include the acceptance of the buyer`s terms and conditions. In contrast the buyer accepts our conditions by receipt of goods.

3. In case one or more clauses of these General Terms and Conditions of W. Ulrich GmbH are null or void the effectiveness of the remaining clauses will not be impacted by this. Null or void clauses will be automatically replaced by those legally effective clauses, which come closest to the economic intent.

II. Offers, quality specifications, written form

1. Our offers are made without obligation. Orders are only binding for us if and as far as we have confirmed them in writing or have started to process them. Cost estimates and freight indications do not include fixed prices.

2. Information, recommendations, commitments, guarantees and agreements by our staff as well as contractual collateral agreements, reservations, modifications and additions require our written consent to be valid.

3. Our information about quality of goods like for example samples, analyses, drawings, weight, quality, measurements and norms are only roughly decisive (framework data) as far as we do not explicitly guarantee them in writing.

III. Authorizations, environmental protection

We are not responsible for the granting of official authorizations. The customer declares compliance with safety and environmental protection regulations.

IV. Prices, Payment

1. For lesser quantities the bulk price is valid for the amount taken.
2. If a price is not agreed upon in writing as a fixed price we are entitled to calculate our prices as valid on the day of delivery. If after conclusion of contract costs related to production, handling and transport of the goods (including public charges like toll) are increased or newly justified, the purchase price to be paid by the customer increases even when these costs are not charged separately from the purchase price. In case passing on the cost increase to the customer is legally prohibited we are entitled to withdraw from said contract.
3. Prices for reorders of previous purchases are valid only if explicitly confirmed by us.
4. As far as the order confirmation remains unchanged prices are effective ex our warehouse or with drop shipments ex works excluding packaging respectively. The value added tax is not included in these prices and will be applied on the day of invoicing in the legally valid amount.

V. Delivery, transfer of risk

1. The delivery quantity will be determined at our option according to customary methods. Customary short- or excess deliveries of the purchased quantity are considered as contract compliance. We are entitled to make partial deliveries to a reasonable extent. Decisive for quality are the data determined by the shipping point. The acceptance of the goods without reservation by the customer or forwarding agent serves as proof for quantity, impeccable wrapping and loading.
2. Dates and terms of delivery are mandatory for us only when confirmed in writing. All dates and terms of delivery are based on the condition that routes and means of transport are generally available. They are considered observed if the goods are shipped in time so that they reach the recipient on time given a usual time of transport. We are free of our delivery duty in case we do not receive proper delivery without our fault.
3. The customer has to cooperate during transfer of goods and needs to let us know beforehand and in time about complicated delivery conditions (i.e. bad access road).

In the case that we had arranged a delivery, the customer has to make sure that an unimpeded delivery to the designated destination is made possible. In case of circumstances caused by the customer or a third party instructed by the customer, a delivery of goods at the designated delivery time is not possible in the arranged, or due to lack of arrangement a general form or not at all, the customer is responsible for any additional costs.

4. The risk of accidental loss of the goods will be transferred to the customer with the provision for pick-up or at the latest at loading into the transport vehicle. We are not obligated to inform the customer explicitly about the provision. The customer is obligated to preserve rights against third parties especially businesses commissioned with the transport of the goods.

5. Should the delivery / pick-up be delayed for reasons for which the customer is responsible the customer has to handle the costs of storage and risk of accidental loss.

VI. Unloading

The customer is always responsible for unloading and storage of the goods.

VII. Packaging

1. We are not obligated to check containers provided by the customer for suitability especially cleanliness. We are not liable for damages or defects that are caused by faulty or otherwise inadequate containers provided by the customer.

2. As far as our deliveries are made in returnable containers they have to be returned completely empty, clean and at the risk and cost of the customer at the latest within 30 days from arrival at the customer. They can also be handed free of charge to our vehicle with acknowledgement of receipt.

3. If the customer does not comply in time with the obligation mentioned in 2., we are entitled to charge a reasonable fee for the time extending 30 days and, after passing our deadline for return, ask for the replacement price by appropriating the prior mentioned fee.

4. The attached labels shall not be removed. The returnable container (-s) shall not be swapped or filled with other materials. The customer is liable for impairments, swapping, contamination and loss regardless of fault. The report of receipt at our works is authoritative. A use as storage container or passing it on to third parties is prohibited if not agreed beforehand in writing.

VIII. Force majeure, delivery disturbances

1. Events affected by force majeure i.e. limitations under public law or strikes and lockouts authorize W. Ulrich GmbH to delay delivery for the length of the obstruction or withdraw from the contract partially or in total without being obliged to compensation. This applies also to unforeseen other circumstances which impede, delay or aggravate production or shipment of the goods especially with self-delivery that is not on time or incorrect as well as to lack of energy or raw materials.

In case of partial or total loss of our sources of supply we are not obligated to stock up through other suppliers.

2. The buyer can set us a reasonable extension after 4 weeks indicating that he rejects delivery after expiry of the extension. Unsuccessful expiry of the extension legitimizes the customer to withdraw from the purchase contract in writing or demand compensation due to default according to section X paragraph 2 and 3 in case we are responsible for the delay of delivery.

3. If we do not have sufficient goods available with regards to paragraph 1 of this section to satisfy all buyer requests we are entitled to make equal reductions for all delivery obligations. In addition we are exempt from delivery obligations.

IX. Complaints

1. The customer has to address all obvious and recognizable defects, shortfalls or incorrect deliveries of goods and packaging in writing after delivery in any case before resale, processing, blending, consumption or incorporation. The customer has to claim hidden defects in writing immediately after discovery, at the latest within one year of time of delivery. Customer's non-compliance with these prior mentioned obligations serves as acceptance of goods. The complaint regarding a delivery or service does not justify a rejection of further deliveries or services from the same or another contract.

2. The customer has to inform us immediately in writing about transport damages and has to document them on the carrier's freight papers.

3. Measures for damage mitigation are not considered as acknowledgement of defect. Negotiating possible complaints does not mean that we waive our right to object that the complaint was not submitted in good time, was unfounded or otherwise inadequate.

X. Supplementary performance, liability

1. Buyer`s demands regarding defects are excluded with unwarranted defects. An unwarranted defect exists if the value or the suitability for normal use is reduced only insignificantly. Given a justified complaint we will remediate at our discretion or exchange the damaged goods. Supplementary performance is excluded if it is affiliated with unreasonable costs for W. Ulrich GmbH. If rectification of defects or replacement delivery fails, the customer has the right to demand a reduction in price or cancellation of the contract. In so far as there are claims against third parties we can demand that claims against us should be asserted only after claims against these third parties have been asserted in court in vain.

2. Claims for defects made by the buyer expire within one year of delivery of goods or when the action that led to the damage was carried out. Longer periods due to legally binding statutes on limitation are not affected.

3. W. Ulrich GmbH is liable – regardless of any legal reason – only for violation of a contractual obligation limited to the scope of damage the emergence of which had to be typically anticipated by W. Ulrich GmbH at the conclusion of contract due to the known circumstances at this time. The typically emerging foreseeable damage amounts to the value of the queried goods.

W. Ulrich GmbH is not liable for indirect damages, collateral damages, consequential and pecuniary damages as well as lost profit.

4. Filing a complaint does not lift the buyer`s obligation for payment unless we have accepted the complaint. The buyer can claim rights of retention only then, as they are in direct contact with the purchase contract from which we derive our claims.

5. Possible claims due to deliberate or grossly negligent behavior of W. Ulrich GmbH, due to culpable violation of a contractual obligation in a manner that endangers the achievement of the contractual purpose (cardinal obligation), due to product liability law, acceptance of a warranty and damage to life, body and health are not limited or excluded by the preceding provisions.

6. W. Ulrich GmbH is not liable for the suitability of goods for purposes intended by the customer. As far as W. Ulrich issues application-specific consultation, information or recommendations it is done on the basis of information, samples or test series provided

by the customer. The substantive accuracy and completeness of this information is not checked by W. Ulrich GmbH for accuracy or completeness. This lies within the responsibility of the customer. Since the actual application is outside of our influence and the circumstances are not completely foreseeable, written, oral information and advice etc. can only be given without obligation.

In particular, they do not exempt the customer from examining our products and goods for suitability for the intended processes and purposes.

XI. Terms of payment, offset

1. Our invoices are payable immediately without any discount

2. A payment is considered done only when we have received the full amount. We accept bills of exchange or checks only on account of performance and subject to discounting options against immediate compensation of all expenses. We are not obligated to the timely submission of bills of exchange or checks.

3. Our employees are not entitled to receive payments or other provisions without written authorization.

4. The customer is entitled to offset or retention of payment only if the counterclaims are determined as legally binding, ready for decision or undisputed.

XII. Default of payment, doubts regarding creditworthiness

1. In case of default of payment all granted rebates, discounts and other benefits become obsolete. In case of default we charge default interest at the statutory rate and we reserve the right to claim further damages.

2. If the customer does not observe its payment obligation i.e. if payments are stopped or a check is not cashed or if other circumstances become known to us which put the customer's creditworthiness into question, we are entitled to claim the entire residual debt even when we have accepted checks/bills of exchange. We are furthermore entitled to ask for prepayments or provisions of security. We can also withhold or decline partially or in total further deliveries not only from current as well as from other contracts and ask for immediate cash payment for all deliveries.

XIII. Retention of title, securities

1. Ownership of the goods passes on to the buyer only with full payment of the purchase price and all other claims that may arise in the future from this business relation with us. As long as the buyer properly fulfills his liabilities towards us he is entitled to further use in the customary course of business.

2. We are entitled, without grace period or rescission notice, to claim the goods subject to retention of title from the buyer if he does not fulfill his liabilities despite a deadline. For the purpose of taking back the goods we are entitled to enter the buyer's business premises.

3. In this way the buyer transfers his claims against third parties that result from further use (i.e. sale) of the goods subject to retention with all ancillary rights to us in order to secure all our claims. In case the goods subject to retention are sold together with other items for an all-in price the transfer is limited to the pro-rata amount of our invoice for the goods subject to retention. In case the goods subject to retention are sold after processing them with goods of a third party, the transfer refers to the part of the claim that corresponds with our co-ownership share. If the buyer is using the goods subject to retention within the framework of a work contract or something similar he transfers the work wage claim to us in the amount of the invoice value of our goods used for this purpose.

The buyer is entitled, given a proper course of business, to collect his claims from a further use of the goods subject to retention. When asked by us, the buyer has to disclose the transfer to his customers, abstain from any disposal over the claims, pass on to us all necessary information about the stock of goods owned by us as well as hand over the documents for asserting those transfers. Accesses by third parties to the goods subject to retention and the transferred claims should be disclosed to us immediately. When asked the customer will disclose the transfer and hand over the necessary information and documents to us. Furthermore the customer assigns to us future claims regarding damages of the goods delivered by us.

5. At the customer's expense we can separately store, label or pick up our goods as well as prohibit any disposal of the goods. Taking back the goods due to retention of title does not constitute a withdrawal from the contract and the customer is obligated to return the goods at his expense. He is liable for decrease in value, our redemption costs and lost profit. He waives claims of ownership.

6. We are entitled at any time to ask for securities of our choice (especially land charges) and their reinforcement for proper fulfillment of the customer's obligations. We shall be authorized to claim and utilize customer's assets that are subject to our actual influence as security / deposit.

7. Treatment or processing of the goods subject to retention by the buyer or a third party commissioned by the buyer is always done for us without any resulting obligations for us. We are manufacturers according to § 950 BGB and acquire ownership of intermediate and final products at least in the amount of the invoice price of our goods subject to retention. The buyer or the respective owner are considered by us only as custodian. In case of further processing with goods of a third party we are entitled to co-ownership of the new item in relation to the invoice values of the processed goods. The same is applicable according to §§ 947, 948, BGB to combining or mixing the goods subject to retention with other goods.

8. Our reservation of title according to the prior mentioned regulations remains, even then if individual claims are included in a current account and the balance is determined and acknowledged. If the value of the securities available to us exceeds the total amount of open claims by more than 20 percent we are obligated upon the purchaser's request to release securities at its own choice.

XIV. Assignment prohibition

The customer can assign or pledge our claims against him or dispose of them in some other way only with our consent.

XV. Data storage

We store and use personal data only for the purpose of the business relationship and otherwise in the context of legal provisions (§§ 27 ff. BDSG). The buyer agrees in particular that we, in the course of refinancing measures, assign our purchase price claims against him and pass on personal data in this context to third parties if necessary according to § 402 BGB.

XVI. Court of jurisdiction, choice of law

1. Exclusive court of jurisdiction for all present and future claims from the business relationship with the customer is the registered office of our company. We shall retain



the right, outside of the default action, to initiate legal proceedings against the customer at its general court of jurisdiction.

2. Authoritative for the contract is exclusively German law as it applies to business between residents on domestic territory. The applicability of the United Nations convention on contracts regarding the international sale of goods of April 11, 1980 (CISG) is excluded.