

Terms and conditions of sale and delivery

Wilke GmbH
Eilper Straße 113a
D- 58091 Hagen

1. Scope

1.1 The following terms and conditions shall apply to all contracts, including future contracts, which relate to deliveries and services of Wilke GmbH. They can be accessed at any time at

www.wilke-hagen.de/index.php/downloads

1.2 Unless explicitly agreed in writing, we do not accept any conflicting or supplementary Terms and Conditions of Purchase of the customer. This shall also apply in the event that we execute a delivery or service without reservation in the knowledge of the Terms and Conditions of Purchase.

2. Conclusion of Contract Delivery Passing of Risk

2.1 Our offers are subject to confirmation unless explicitly described as binding.

2.2 General information about quantities, measures and weights, images and descriptions in catalogues and other documentation are non-binding.

2.3 General information concerning suitability and use of our goods are without obligation and do not exempt the customer either from the compliance with applicable legal provisions and regulatory requirements nor from carrying out own tests as far as necessary.

2.4 Customer orders require our written confirmation unless otherwise agreed in writing.

2.5 Deliveries are subject to the agreed Incoterms in force on the date of contract, usually "ex works" (EXW).

2.6 Delivery dates have to be agreed in writing. Bindingly agreed delivery lead times commence with the day of the final confirmation of an order, however, not before all details of the order have been clarified. They are deemed to be met with the notification of readiness for dispatch.

2.7 Delivery dates shall be prolonged to an appropriate extent due to force major or other circumstances beyond our control such as strike, measures taken by public authorities, non-foreseeable disruption of operations or traffic and incomplete or late pre-delivery. We shall be released from our obligation to deliver if due to these circumstances a delivery becomes unreasonable or impossible.

2.8 The risk of destruction, loss and deterioration shall pass to the customer with the delivery of the contractual goods at our place of business at D-Hagen / Westfalen or at the place of delivery specified by us.

3. Prices · Payment

3.1 The agreed prices shall apply for delivery or provision of service, these are usually in Euro, ex works, plus value added tax (VAT) at the statutory rate applicable at the time, unless otherwise provided by law. In the absence of agreed prices, the fair prices are determined by us.

3.2 Payments by the customer have to be made exclusively to the accounts indicated on the invoice and shall only be deemed to be executed at the time when we can unreservedly dispose of the full amount. Payments are offset against the eldest invoice due, namely for costs, interest and main performance.

3.3 Unless otherwise agreed in writing, the purchase price has to be paid without deduction immediately after invoicing.

3.4 The customer shall only be entitled to a right of set-off provided that his counterclaim has become legally binding or is uncontested. He shall only be entitled to a right of retention if his counter-claim is based on the same contractual relationship.

3.5 We are entitled to set-off our claims or claims by any of our group companies against claims of the customer or any of their group companies, also arising from other contracts. We are entitled to exercising of rights of retention as provided by law.

4. Retention of Title

4.1 We retain title of the goods delivered by us until all claims resulting from the business relationship with the customer have been settled in full.

4.2 Our retention of title also covers goods which have been manufactured by way of processing. If our goods subject to retention of title are mixed or combined with goods of third parties, we shall be entitled to proportionate co-ownership corresponding to the relation of the invoice value of our goods and the third parties' goods. Our co-ownership shall be deemed as goods subject to retention of title.

4.3 The customer shall have the revocable right to sell goods delivered under retention of title in the course of ordinary business. In such a case, the customer now agrees to assign to us all of his claims and ancillary rights towards his buyer resulting from the resale, and – in the case of resale after processing, combining or mixing with third party's goods – at the price of the partial amount corresponding to our co-ownership. We accept this assignment and are entitled to disclose it if the customer is in arrears. In this event, the customer is obliged to immediately disclose details of the buyers of the goods and his claims.

4.4 The customer undertakes to treat our goods with proper care, mark them as our property and store them separately, so that segregation is possible at any time. Pledging and transfer by way of security of our goods is not permitted. We have to be immediately notified in writing of distresses or other interferences by third parties.

4.5 In case of resale of the goods to a third country, the customer has to guarantee our retention of title up to full payment of the goods.

4.6 Should the value of securities exceed our claims by more than 20 %, the customer can demand the release of the exceeding securities at our own choice.

5. Warranty for Defects

5.1 Warranty rights of the customer require that obvious defects have to be notified in writing no later than 5 working days after receipt of the goods and hidden defects no later than 5 working days from discovery, including an exact description of the defects. Otherwise the goods shall be deemed to be accepted.

5.2 Warranty claims of the customer become time-barred after 12 months from passing of risk, unless longer periods of time are provided by law.

5.3 On our request the customer has to send the rejected goods for inspection to our place of business at D-Hagen / Westfalen or to another place specified by us.

5.4 If our goods show a defect at the time of passing of risk despite all care having been taken, we shall, at our choice, either repair or replace the goods (supplementary performance) within an appropriate time.

5.5 If supplementary performance ultimately fails after two attempts, or if it is unacceptable to us, the customer may cancel the contract or demand an appropriate reduction of the price agreed. Claims for damages and compensation are exclusively subject to section 6 of these General Terms and Conditions of Sale and Delivery.

5.6 The customer has no warranty rights for insignificant defects, for instance, such as minor deviations in material, dimension, colour or quantity delivered, natural wear and tear or damages caused due to faulty handling, alterations or repairs of the goods by the customer or third parties.

5.7 The customer may only exercise his rights of recourse if his warranty towards his buyer does not exceed the legally binding terms.

6. Liability for Damages and Expenses

6.1 A liability for compensation for damages or reimbursement of expenses exists in case of damages caused by intent or gross negligence on our part or on the part of our legal representatives and agents. In case of slight negligence of an essential contractual obligation, our liability shall be limited to foreseeable and typically occurring damage at the time of conclusion of contract. In case of a slight negligent breach of non-essential contractual obligations liability shall be excluded. Claims for damages under the Product Liability Act, for personal injury or death, fraudulent concealment of a defect and acceptance of guarantee shall remain unaffected.

6.2 Loss of profit, loss of use and other consequential damages are not compensated for by us. This shall apply also for requested lump sum for claim costs.

7. Industrial Property Rights Confidentiality

7.1 All business and technical information which we provide to the customer for the implementation of delivery or service remain our sole property.

7.2 The customer undertakes to treat our information with proper care, mark them as our property and store them separately so that segregation is possible at any time.

7.3 Our information must not be disclosed, passed onto third parties, duplicated or used for any other purpose than the one agreed, without our prior written consent. All employees of the customer shall be separately bound by an obligation to secrecy before disclosure.

7.4 The customer undertakes to immediately return our complete information including any possible duplications should an order not be executed or the contractual cooperation be terminated. If our information cannot be returned based on its nature, the customer has to confirm in writing that any information has irretrievably been destroyed or deleted. A right of retention does not exist.

8. Place of Performance Jurisdiction

8.1 Place of performance for all contracts is our place of business at D-Hagen / Westfalen, unless a different place of performance is specified by us.

8.2 Exclusive, also international, place of jurisdiction for all legal disputes resulting from these contracts is D-Hagen / Westfalen, or, at our choice, the customer's general place of jurisdiction.

9. Applicable Law Language Miscellaneous

9.1 German law shall apply exclusively, to the exception of its conflict of laws provisions and the United Nations Convention on Contracts for the international sale of goods (CISG).

9.2 The contractual language is English, unless otherwise agreed in writing.

9.3 Should one or more clauses of these General Terms and Conditions of Sale and Delivery be ineffective or non-enforceable, this shall not affect the effectiveness and enforceability of the other clauses.

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