

General terms and conditions of delivery and payment of Störmer GmbH & Co.KG for contracts with customers who are not consumers in accordance with § 13 BGB (German Civil Code).

1. General

- 1.1. For the entire business relationship, i.e. also for future business transactions, only these terms and conditions of delivery and payment of Störmer GmbH & Co. KG (hereinafter referred to as Störmer) apply. Conflicting conditions, in particular purchasing conditions of the purchaser, are not acknowledged unless their validity is expressly agreed to by this party.
- 1.2. Our terms and conditions of delivery and payment shall also apply if we execute orders without reservation in the knowledge that the purchaser's terms and conditions conflict with or deviate from our terms and conditions of delivery and payment.
- 1.3. Oral declarations deviating from the terms of delivery and payment and our written agreements, regardless of their nature, in particular also promises made by representatives, are invalid without express written confirmation.
- 1.4. Our offers are subject to change without notice. Orders shall not be binding for Störmer until we have confirmed them in writing.

2. Prices and payments

- 2.1. Unless otherwise agreed, prices are to be understood in EURO ex works, including loading at the works, plus value added tax applicable at the time of invoicing.
- 2.2. Unless expressly confirmed as „fixed prices“, the prices are subject to change without notice and entitle to a proportional price adjustment if wage or material price increases occur within four months of conclusion of the contract. These will be proven to the purchaser upon request.
- 2.3. Unless expressly agreed otherwise, our claims are due immediately upon receipt of the invoice. All payments are to be settled without any deduction free paying office of Störmer.
- 2.4. The purchaser shall be in default if he exceeds an agreed term of payment or, if no such term has been agreed, does not pay within a period of thirty days after due date and receipt of an invoice or does not pay despite due date and reminder. If the conditions for default are met, Störmer can demand interest on arrears in the amount of 8% above the base rate, unless it can prove higher damage caused by default. Störmer may demand compensation for all damages caused by the default, including reasonable expenses for legal prosecution.
- 2.5. Bills of exchange and cheques shall only be accepted on account of performance. Any resulting expenses or other costs must be paid in cash immediately, at the latest within one week of notification. If a bill of exchange is to be discounted later as agreed (e.g. for cheque/bill of exchange procedures), Störmer may demand interest on the due date in accordance with §352,353 HGB (German Commercial Code).
- 2.6. The purchaser is not permitted to offset unless the counter-claim is undisputed or legally established. The purchaser shall only be entitled to exercise a right of retention to the extent that his counter-claim is undisputed or legally established and is based on the same contractual relationship as Störmer's claim.
- 2.7. In the event of default in payment on the part of the purchaser, the occurrence of payment difficulties, unsuccessful enforcement measures or an application for the opening of insolvency proceedings, all claims against the purchaser by Störmer, including claims deferred by acceptance of bills of exchange, shall become immediately due and payable, with any discounts or other rebates granted expiring.

3. Delivery time

- 3.1. Unless fixed delivery dates have been expressly agreed, the stated delivery times are only approximate.
- 3.2. Störmer shall only be obliged to act when the purchaser has fulfilled his contractual obligations. This applies in particular to cooperation actions to be performed by the purchaser, such as, for example, timely call-off in the case of call-off orders.
- 3.3. In the event that the purchaser fails to perform essential cooperative acts, fixed agreed delivery periods shall be extended by the duration of the delay.
- 3.4. In the event of impossibility or incapacity for which we are not responsible or for which we are not responsible, we shall be released from our obligation to deliver; otherwise, the statutory provisions shall apply in this case.
- 3.5. The purchaser is obliged to accept partial performance unless the purchaser cannot use the partial performance sensibly and is therefore justifiably not interested in it.
- 3.6. If Störmer is completely or partially in default with the owed performance for reasons for which it is responsible, its liability shall be limited to compensation for the damage caused by the default in the amount of the usually foreseeable damage.
- 3.7. If the purchaser is in default of acceptance or violates other duties to cooperate, the additional expenses demonstrably incurred as a result shall be charged to the purchaser, starting with the month following the notification of readiness for dispatch, §§ 373 I HGB (German Commercial Code), in the case of storage at Störmer, however, without proof at least in the amount of 0.5% of the invoice price for each month commenced.
- 3.8. Störmer is entitled, but not obliged, to make use of the possibilities of § 373 II HGB (German Commercial Code) after expiry of a period of fourteen days to be set by it and notification to the purchaser.

4. Quality specifications and industrial property rights

- 4.1. Sample books, illustrations, photographs, printed matter, etc. enclosed with the offers or deliveries as well as information on dimensions, weights, services, etc. are only approximately valid. In particular, they shall not be deemed warranted characteristics or guaranteed properties.
- 4.2. We reserve the right to make changes in the interest of technical progress.
- 4.3. If an accessory, which is noted in the order confirmation with make and technical data, cannot be used due to unforeseen circumstances, Störmer reserves the right to supply a spare part equivalent to the state of the art at its own, dutiful discretion.
- 4.4. Störmer is generally not obliged to check the dimensions, weights etc. notified by the purchaser and does not assume any responsibility in this respect, unless a fault in the purchaser's details was easily recognizable. However, Störmer must inform the purchaser immediately of any detected errors in his data. In this case, firmly agreed delivery times shall be extended by the period of time until the defect has been rectified by the purchaser.
- 4.5. The documents made known to the purchaser shall remain the property of Störmer and may not be reproduced or made available to third parties in any form whatsoever without their prior written consent.

5. Transfer of risk and Delivery

- 5.1. Upon delivery, the risk shall pass to the purchaser upon provision of the delivery parts on the premises of Störmer and notification of readiness for delivery, even if reasonable partial deliveries are made.
- 5.2. At the purchaser's request, the consignment shall be insured against breakage, fire and water damage at the purchaser's expense by Störmer. The transport insurance will be covered by Störmer and invoiced at cost price. The purchaser is obliged to inspect the goods for transport damage immediately upon delivery by the forwarding agent or carrier and to notify the transport person of any such damage demonstrably. If the purchaser violates this obligation and therefore does not take out transport insurance, this shall be borne exclusively by the purchaser.
- 5.3. If the delivery item is assembled at the purchaser's premises by Störmer or auxiliary persons employed by us, the risk shall pass to the purchaser upon acceptance. At the request of Störmer, the purchaser shall be obliged to accept part of the performance which is self-contained. Irrespective of this, the purchaser must take the necessary and reasonable precautions to ensure the protection of the delivery items stored by Störmer on the assembly site against the usual and foreseeable risks there. This includes in particular the protection against unauthorized access and access by third parties, against theft and fire as well as the inclusion of deliveries which have not yet become the property of the purchaser in existing or to be concluded insurance policies of the purchaser. Protective devices used for transport or storage purposes shall remain the property of Störmer.

6. Retention of title

- 6.1. Deliveries shall be made subject to retention of title in accordance with § 449 BGB (German Civil Code) with the following extensions:
- 6.2. The delivery item remains the property of Störmer until full payment of all claims, including future claims against the purchaser arising from the business relationship, has been made, unless otherwise agreed below.
- 6.3. Any acquisition of ownership by the purchaser of the reserved goods by processing and/or treatment of the reserved goods into a new movable object shall be excluded. Any processing and/or treatment by the purchaser shall be carried out on behalf of Störmer without any obligations arising for Störmer from this. Ownership of the processed or handled delivery item remains with Störmer and serves to secure the claims of Störmer to the amount of the value of the reserved goods.
- 6.4. If Störmer combines the goods with other movable objects not owned by Störmer, Störmer is entitled to co-ownership of the new object in the ratio of the reserved goods value to the other processed objects at the time of processing. The purchaser is obliged to inform the owners of the others of Störmer's retention of title. In all other respects, the same shall apply to the new object resulting from the processing as to the reserved goods within the meaning of these provisions. Störmer's retention of title shall also remain in force if the delivery item is connected to a piece of land or brought into a building for a temporary purpose only, § 95 BGB (German Civil Code).
- 6.5. The purchaser is only entitled to resell the reserved goods, to process them or combine them with other items or a piece of real estate within the framework of the ordinary course of business and subject to the proviso that he does not agree a prohibition of assignment with third parties. The purchaser's claim arising from the resale of the reserved goods, whether unchanged, processed and/or treated and irrespective of the number of buyers, is hereby assigned to Störmer in the amount of the invoice value of the delivery items plus the applicable value-added tax. Störmer accepts the assignment.
- 6.6. Störmer agrees to an assignment of the purchaser's claims arising from the resale of the goods delivered by Störmer against his third purchaser within the framework of genuine factoring (assignment to the factor in lieu of performance) but subject to the proviso that the purchaser sells the claims at an appropriate price within the framework of proper business transactions and assigns his payment claims against the factor arising from the sale of the claims against his third purchaser to Störmer and instructs the factor to make payment only to Störmer. Störmer accepts the assignment. As far as the purchase price is lower than the claim of Störmer, the further claim of Störmer remains unaffected. The purchaser shall provide Störmer with all information necessary to assert the claims against the factor
- 6.7. The purchaser is not entitled to dispose of the reserved goods in any other way. He is obliged to inform Störmer immediately of any attachments or other impairments of the delivery items and the rights of Störmer by third parties. The purchaser shall bear the necessary costs of intervention by Störmer.
- 6.8. In spite of the assignment, the purchaser is authorised to collect claims in addition to Störmer. Störmer will not collect the claim and will not disclose the assignment as long as the purchaser duly meets his payment obligations. At the request of Störmer at any time, the purchaser shall inform Störmer of the debtors of the assigned claims and notify the debtors of the assignment.
- 6.9. The retention of title shall also remain in force if individual claims of Störmer are included in a current invoice, a balance is struck and this is acknowledged.
- 6.10. Upon full payment of all claims, including costs and interest, which Störmer has arising from the business relationship with the purchaser, ownership of the reserved goods and the assigned claims shall pass to the purchaser without further ado. However, Störmer undertakes to release the securities to which it is entitled in accordance with the above provisions at the request of the purchaser at its discretion, provided that their value exceeds the claims to be secured by 10%.

7. Warranty

- 7.1. In commercial business transactions, the purchaser is obliged to comply with the statutory inspection and complaint obligations. If the purchaser is certified, the degree of care to be applied in this respect, even in relation to Störmer, shall be based at least on the purchaser's quality assurance provisions, unless general commercial standards already require a higher degree of care on the part of the purchaser. Störmer shall not be liable for damages which are caused by a breach of this obligation on the part of the purchaser and which would have been avoided had the purchaser exercised the necessary care.
- 7.2. A warranty for defects in the products shall be assumed by Störmer for material defects and defects of title. Prerequisite for the liability for material defects is the exact observance of the assembly, processing and operating instructions of Störmer. Störmer does not assume any warranty for incorrect processing or incorrect operation, unless this is due to unclear or incomplete assembly and/or operating instructions. The warranty also does not cover damage due to natural wear and tear, excessive use or chemical, electrical or physical influences for which Störmer is not responsible.
- 7.3. If Störmer is responsible for a defect in the delivery item, Störmer shall initially be entitled, at its option, to subsequent performance (elimination of the defect or delivery/production of a defect-free item). In all other respects, the statutory warranty claims of the purchaser shall remain unaffected.
- 7.4. In the event of failure of subsequent performance, the purchaser may only claim damages in the amount of the typically foreseeable damage.
- 7.5. Störmer is obliged to bear all expenses necessary for the purpose of subsequent performance, in particular transport, travel, labour and material costs, insofar as these are not increased in a manner unforeseeable to Störmer by the fact that the delivery item was taken by the purchaser to a place other than the agreed place of delivery.
- 7.6. The limitation period for claims of the purchaser for supplementary performance and damages due to defects of movable goods delivered or manufactured by us shall be one year, unless the goods are intended for permanent connection to a building in accordance with their customary use and their defectiveness has caused the defectiveness of the building; in this case the limitation period shall be five years.
- 7.7. The assignment of the purchaser's warranty claims to third parties is excluded.

8. Compensation for damages

- 8.1. If, except in the cases already mentioned, the purchaser is entitled to claim damages in accordance with the statutory provisions, the liability of Störmer shall be limited in principle to intent and gross negligence on the part of its legal representative or its executive employees. However, this shall not apply to damages resulting from injury to life, body and health which are based on a negligent breach of duty or an intentional or grossly negligent breach of duty by a legal representative or vicarious agent of Störmer. This also does not apply to damages caused by a culpable violation of essential contractual obligations or by a grossly negligent violation of non-contractual obligations by a simple vicarious agent of Störmer; in this respect, however, the liability is limited in amount to the typically foreseeable damage.

9. Place of jurisdiction and applicable law

- 9.1. For all present and future claims arising from the business relationship, the place of jurisdiction shall be the registered office of Störmer.
- 9.2. However, Störmer is also entitled, in active legal proceedings, to bring an action before the court responsible for the registered office of the purchaser at its discretion.
- 9.3. The legal relationship between the contractual parties shall be governed exclusively by German law, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).
- 9.4. Severability clause
The complete or partial invalidity of individual contractual provisions shall not affect the validity of the remainder of the contract.