



POLENZ

METALL DESIGN MANUFAKTUR

Terms and conditions

§ 1 Validity of conditions

(1) The deliveries, services, and offers of the Seller are made exclusively on the basis of these terms of business. Thus these are valid also for all future business relationships, even if not again agreed upon expressly. At the latest on receipt of the goods these terms and conditions shall be considered as accepted. Confirmation to the contrary by the Purchaser referring to his terms and conditions is hereby expressly contradicted.

(2) All agreements between the Seller and the Purchaser differing from these terms and conditions must be recorded in writing.

§ 2 Offer and conclusion of contract

(1) The offers of the Seller are not-binding and noncommittal. Declarations of acceptance and all orders require written confirmation or via fax or via electronic means of communication of the Seller to be legally effective.

(2) Drawings, illustrations, measurements, weights or other performance data are only binding when expressly agreed upon in writing.

(3) The Seller hereby reserves the right of ownership and copyright in all documents provided to the Purchaser, especially in all cost estimates, drawings, calculations, etc.

(4) Unless otherwise agreed the information communicated by the Purchaser to the Seller in connection with the conclusion of the contract is not deemed to be confidential.

§ 3 Prices and payment

(1) Unless otherwise agreed the prices apply ex Lüdinghausen excluding packaging and transportation plus value-added tax at the rate then applicable.

(2) The Seller shall consider the prices stated in his quotations to be binding for a period of 30 days from the date of their issue. Otherwise the prices stated by the Seller in the order confirmation shall apply. If delivery, or performance, respectively, is made more than three months after the order confirmation, the Seller shall have the right to increase the prices to a reasonable extent due to changes in wages, material, and sales cost.



POLENZ

METALL DESIGN MANUFATUR

(3) Unless otherwise agreed all invoices of the company are due immediately and without deductions unless another period of payment is indicated in the invoice. For a net value of less than EUR100,00 we will charge an additional small-volume sum of EUR15,00 plus value-added tax. Default interest shall be charged at a rate of 5 % over and above the prevailing base interest rate. The right to allege a damage caused by default remains unaffected.

(4) The Purchaser shall not be entitled to set off with counterclaims not accepted by the Seller or being disputed by the Seller or to withhold payments wholly or partially.

(5) Irrespective of different determinations of the Purchaser the Seller is entitled to set payments off against older debts first. If cost and interest have already occurred the Seller shall be entitled to credit any payment initially against the cost subsequently against the interest and finally against the main account.

(6) A payment shall only be deemed to be effective if the Seller may freely dispose of the amount. In the case of cheques, the payment is considered settled when the cheque has been cashed in.

(7) In the event that circumstances arise and come to the knowledge of the Seller that call into question the creditworthiness of the Purchaser, especially when the Purchaser stops making payments or if other circumstances come to the knowledge of the Seller that call into question the creditworthiness the Seller is entitled to withdraw from the contract. The Seller retains the assertion of claims for damages following the withdrawal expressed by himself.

(8) The Purchaser will only have the right to set-off, retention or price reduction if his counterclaims have been established as legally binding or are undisputed. The Purchaser is only entitled to enforce a right of retention in this respect when his counterclaim is based on the same contractual relationship.

§ 4 Delivery, delivery deadline, transfer of risk, and assembly

(1) All information relevant to the deadline or period of delivery shall always only be approximate. Furthermore the agreement concerning dates or periods of delivery must be recorded in writing.

(2) Late deliveries caused by force majeure and due to events that render the delivery not only temporarily considerably more difficult or make a delivery impossible – as for instance: strike, lockout, governmental orders etc. even though they might occur at the suppliers (or their subcontractors) of the Seller – will the Seller - even in the case of delivery periods and deadlines having been agreed on a binding basis – not be responsible. In this case the Seller may postpone the delivery or service for the length of the obstruction and add a reasonable processing period or cancel the contract wholly or in part in respect of the part of the contract not yet performed.



POLENZ

METALL DESIGN MANUFAKTUR

(3) The Seller is always entitled to partial deliveries and partial performances, unless partial deliveries and partial performances are not of interest for the Purchaser.

(4) Adherence to the delivery and service provision obligations of the Seller presupposes the timely and proper fulfilment of the Purchaser's obligations.

(5) In case the Purchaser collects the goods himself at the location of the Seller in Lüdinghausen the risk of accidental loss or accidental deterioration shall pass to the Purchaser with the handing over of the object of delivery. If the goods are sent to the Purchaser at the Purchaser's request, the risk of accidental loss or accidental deterioration passes on to the Purchaser when the goods are shipped to the Purchaser, at the latest when leaving the company of the Seller. This applies regardless of whether shipment is made from the place of performance or regardless of who bears the freight costs. If the Purchaser is in default of acceptance, the risk of accidental loss or accidental deterioration passes on to the Purchaser with the occurrence of the default of acceptance.

(6) Assemblies are carried out as soon as the location ensures an unhindered working. Necessary scaffolding, and connections for current, water etc. are to be provided by the Purchaser. If due to insufficient preliminary work or preparation by the Purchaser loss of time or several travels when assembling occur these costs must be borne by the Purchaser.

(7) If the beginning, continuation or conclusion of work is delayed on account of matters for which the Purchaser is responsible and if he does not immediately find a remedy upon the request of the Seller, the Seller upholding the contract can claim damages or is entitled to set a reasonable deadline for the fulfilment of the contract and to declare that he will terminate the contract if the deadline passes without effect. In the event of withdrawal also any claims for damages remain unaffected.

§ 5 Warranty

(1) Immediately – two weeks at the latest – after receipt of the goods, defects, shortages or wrong deliveries have to be indicated to us in writing. Later notifications of defects cannot be considered any more. Warranty claims shall lapse in the moment, when the delivered goods are being mixed, processed, modified or installed.

(2) The assertion of warranty claims presupposes that the Purchaser fulfills his obligation for inspection and the requirement to make a complaint about defects in respect to the HGB (Translator's note: Handelsgesetzbuch – German Commercial Code).

(3) If operating or maintenance instructions of the Seller are not followed, if the products are modified, if parts are replaced, if consumables are used that do not meet original product specifications or improper repair work is carried out, then all claims regarding any defect become invalid, if the Purchaser is not able to confute the substantial statement that one of the above mentioned circumstances has caused the defect.



POLENZ

METALL DESIGN MANUFAKTUR

(4) Should the goods display a defect which existed already at the time of the passing of the risk the Seller will at his discretion, repair or replace the goods supplied under the condition that the Purchaser has claimed in due time and form. The Seller shall always be granted the opportunity for subsequent performance within an appropriate period of time. Should the repair fail after a certain period, the Purchaser may cancel the contract or demand a reduction of the payment.

(5) Claims for defects shall not exist in the event of slight deviations from the agreed condition, of slight impairment to use, and of natural wear and tear.

(6) Any claims against the Seller for defects shall only be the prerogative of the direct Purchaser and are not assignable.

§ 6 Liability

(1) Any claim for compensation is excluded independent of the type of breach of duty including illegal transactions unless there is willful and grossly negligent conduct of the Seller.

(2) In the event of a breach of significant contractual obligations the Seller shall be liable for any negligence but only to the amount of the foreseeable damage. Claims cannot be made for loss of profits, expenditure saved from compensation claims of third parties, unless there is a composition feature guaranteed by the Seller which explicitly aims to protect the Purchaser against such damages.

(3) The liability limitations and exclusions of liability in the aforementioned paragraphs do not apply for claims, which arise due to malicious conduct on the part of the Seller or in the event of liability for the guarantee of constituent elements, to claims under the German Product Liability Act as well as from a violation of life, the body or health.

(4) If liability is excluded or limited this shall also apply to employees, staff, representatives and agents of the Seller.

§ 7 Retention of title

(1) Until the satisfaction of all claims which the Seller is entitled for any legal reason to exercise now or in future against the Purchaser referring to the whole business connection the Seller reserves the ownership of the goods delivered by him or which will be delivered by him in the future.

(2) The Purchaser is entitled to connect the goods delivered and subject to retention of title in an orderly business transaction with another item, to process or to sell them as long as it is not in default of payment. Pledging and use of the goods as security are not permitted. Claims resulting from a connection, processing, sale or any other lawful reason in respect to the goods delivered under retention of title are hereby assigned now by the Purchaser to the Seller to the full extent. The Seller revocably authorises the Purchaser to collect the demands assigned to the Seller in his own



POLENZ

METALL DESIGN MANUFAKTUR

name but for account of the Seller. This direct debit authorization can only be recalled, if the Purchaser does not meet his payment obligations properly.

(3) If third parties seize the goods under ownership reservation the Purchaser must point out that these goods belong to the Seller and must immediately inform the Seller accordingly so that the Seller can assert his property rights. In the event that the third party is incapable of reimbursing the Seller the court and out-of-court costs that are incurred in connection with this, the Purchaser shall accept liability for this.

(4) For behaviour of the Purchaser that is contrary to the contract, in particular for default in payment the Seller is entitled to withdraw from the contract and to demand that the goods delivered under retention of title to be returned.

§ 8 Final provisions

(1) These terms of business and the entire legal relationship between the Seller and the Purchaser will be governed by the law of the Federal Republic of Germany.

(2) The place of performance and jurisdiction is agreed to be Lüdinghausen, Germany.

(3) If a regulation of this contract is or becomes ineffective, the validity of all other regulations or agreements of the contract remain unaffected.

(4) Our general terms and conditions apply in the respectively valid version.

Status as of 08/2017