

Terms of Delivery and Payment

valid as from 1 January 2010

I. General

- All deliveries and services are subject exclusively to our terms and conditions. The general terms and conditions of Buyer, especially purchase, delivery and payment conditions, do not apply if and inasmuch as they contradict our General Terms of Business. Silence on our part does not constitute acknowledgement or approval. Other conditions or arrangements require our special written acknowledgement.
- We reserve our unrestricted proprietary and exploitation rights and copyrights to cost proposals, drawings and other documents (hereinafter: "documents"). The documents may only be made accessible to third parties with our prior approval and, if the order is not placed, must be promptly returned to us on demand. Sentences 1 and 2 also apply correspondingly for documents of Buyer; these may, however, be disclosed to third parties that we admissibly commission to undertake deliveries.
- Special tools possibly needed to execute an order will be charged wholly or partially to Buyer. These tools remain our property and in our possession. Invoices for tools are not eligible for discount and fall due immediately.
- Proposals are non-committal. Orders first become legally binding when we have confirmed them in writing. The invoice is equivalent to order confirmation in the case that no written order confirmation is issued.
- The documents underlying our proposal, such as illustrations, drawings, statements of dimensions and weights, have been compiled and determined with care, but are only approximate and are not binding for the delivery. The right to make improvements and changes is reserved.
- Excess or short delivery up to 10% is admissible in the total or partial delivery.
- Order quantities can be adapted to match existing packaging units.

II. Prices

- The list prices are gross prices per 100 (modules per 1) pieces plus the statutory VAT. The prices are based on today's manufacturing costs and are the prices charged if these costs are not influenced by further increases, e.g. material price and wage increases, before the delivery day. Otherwise, we reserve the right to adjust prices accordingly.

III. Deliveries

- The stated delivery dates will be kept wherever possible, but they are not binding. The stated deadlines are ex-works.
- Compliance with agreed due periods for delivery is conditional on receiving from Buyer all documents, necessary approvals and releases, especially plans, and the compliance of Buyer with the conditions of payment and other obligations.
- If we are hindered in the fulfillment of our obligations due to unforeseeable occurrences which we cannot avert despite all reasonable care under the circumstances of the case in question – regardless of whether in our factory or at our sub-suppliers – e.g. operational disruptions, delayed deliveries of essential raw materials, ancillary and operating supplies, then the delivery period prolongs appropriately inasmuch as the delivery or service is not rendered entirely impossible. The due periods prolong accordingly if the failure to meet deadlines is the result of force majeure, e.g. mobilisation, war, civil unrest or similar occurrences, e.g. strike, lockout. We are released from our obligation to deliver if delivery becomes impossible due to the aforesaid circumstances.
- Buyer cannot infer any damage compensation claims and rescission rights from the fact that the delivery period prolongs or if we are released from the obligation to deliver in the cases stated above.
- Partial deliveries are admissible.
- We shall be entitled to bill for the goods in the event that an acceptance deadline agreed for a call order is overrun. Call orders must be placed in good time in accordance with the normal delivery times.

IV. Payment

- If no other payment conditions are agreed at transaction conclusion pursuant to the order confirmation, then invoices are payable with 2% discount within 10 days as from invoice date or without discount if paid within 30 days as from invoice date. Payments must be made in cash or to one of our accounts free of cost and banking charges. Cheques are first deemed as payment when the amount is finally credited to our account.
- If the payment target is overrun, we shall be entitled to charge default interest at 5% over the respective lending rate of the Deutsche Bundesbank. The Buyer is in default as soon as the agreed payment target date is overrun. Delivery to unknown principals or principals whose credit standing is unknown to us is made against advance payment, cash on delivery or against letter of credit without discount deduction. If Buyer is in default with a payment, then all claims are immediately due for payment without this necessitating special notice of default. Supplier can revoke payment targets that have already been granted.
- For deliveries and services to Buyer in another country it is considered explicitly agreed that Buyer shall bear all costs, regardless of whether in or out of a court of law, for legal remedy pursued by Supplier in the event that Buyer is in default with payment.

V. Retention of title

- The goods remain our property until all claims against Buyer are settled. In the case that the conditional goods are resold, Buyer assigns to us as security all his future claims against his customers arising for him from a resale until all claims are fulfilled and without this necessitating any separate declaration.
- At the demand of Buyer, we shall release security accordingly in the event that the value of the security exceeds our claims by more than 20%. We shall choose the security to be released at our own discretion.
- For as long as the retention of title exists, Buyer is prohibited from pledging or assigning as security and resale is only permitted to resellers in usual business dealings and only under the condition that the reseller receives payment from his customers or imposes the condition that ownership does not pass to the customer before said customer has fulfilled his payment obligation.
- In cases of processing, reforming or conjoining with other items not belonging to us, we shall be entitled to a co-ownership share in the new item in the ratio of the value of the processed, reformed or conjoined conditional goods to the value of the new item.
- Offsetting with counter-claims of Buyer is excluded in all conceivable cases, unless the counter-claims are uncontested or established with lawful finality.
- Buyer must inform Supplier immediately in the event of any pledge, confiscation or other dispositions or interventions by third parties.
- A culpable offence of Buyer against essential contract obligations, especially payment default, entitles Supplier to recover possession following a warning; Buyer is obligated to surrender.

Recovery or assertion of the conditional title or pledge of the conditional goods by Supplier does not constitute withdrawal from the contract, unless Supplier had explicitly declared this.

- Supplier is entitled to assign his claims from deliveries and services for financing purposes.

VI. Passage of risk

- Any and all risk – also in the case of carriage-paid shipment and self-collection – passes to Buyer on departure from our point of dispatch. Goods dispatched abroad or directly to third parties must be accepted in our factory; otherwise the goods are deemed as delivered subject to conditions.
- When goods are shipped we specify the carrier, freight forwarder and shipment route. Goods are invariably dispatched according to our best judgment. Buyer must bear the additional costs incurred because he demands a different shipment type, packaging type or partial delivery. Packaging is carried out with care and is charged at cost. We do not compensate damages and breakage.

VII. Warranty

- Complaints due to defects, erroneous deliveries and quantity deviations must be notified in writing to Supplier promptly, but no later than 8 days after the goods are received, with precise statement of reasons. Delivery notes must be enclosed, as well as the control numbers of the inner packagings. The goods are deemed as approved despite the defect if Buyer neglects to notify in good time. The same applies if Buyer does not enable us to conduct an objective inspection of the defect promptly following demand.
- We give no guarantees going beyond the minimum requirements demanded by law. In our business relations with enterprises, we warrant that our products are free from defects for 1 year as from delivery. We disclaim liability through right of recourse from the delivery chain because we are purely a components manufacturer. This does not affect product liability.
- The warranty does not extend to cover natural wear and tear or damages arising after passage of risk due to erroneous or careless handling, over-burdening or unsuitable operating means, or due to exceptional external influences not foreseen according to the contract, or due to irreproducible software errors. No warranty is given in the event that inexpert changes or maintenance work is carried out by Buyer or third parties or for the consequences arising from this.
- We must be allowed sufficient time and opportunity to remedy defects. We are released from the warranty obligation if this is refused to us.
- Cost-free replacement will be provided for defective materials on condition that the defective parts are delivered back to us. We assume no costs of whatever kind caused by the defective part or for replacing defective parts.
- Buyer cannot infer any rights from defective partial deliveries regarding the other partial deliveries.
- Return shipments must be sent back carriage-paid and in consultation with our Sales Department.

VIII. Turnover tax – Domestic Market Act

- Buyer is obligated to name to us his turnover tax identification number in the order for deliveries to European Community countries. We shall be entitled to demand compensation from Buyer for the damage caused because Buyer does not name his turnover tax identification number to us or does so incorrectly. The same applies in case of deliveries ex-works if Buyer fails to give us the necessary confirmations concerning transport and final destination of the goods. We are not obligated to verify the turnover tax identification number given to us.

IX. Jurisdiction

- Inasmuch as the contract partner is a merchant, place of fulfillment and place of jurisdiction for all disputes is the registered place of business of Supplier. However, Supplier is also entitled to bring action at the jurisdiction of the contract partner.
- The contract relationships are subject to German law under exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

X. Contract validity

Even if individual points in the contract are lawfully ineffective, it nevertheless remains effective and binding in its other parts. This does not apply if adhering to the contract would constitute an unreasonable hardship for one of the parties.

XI. Concluding provisions

If individual provisions of these Terms of Delivery and Payment should be invalid or impracticable or if provisions stipulated by law are lacking, this shall not impair the validity of the other provisions.

The invalid or impracticable provision will be replaced with the valid or practicable provision that comes closest in its economic effect to the meaning and purpose of the invalid or impracticable provision.

WECO Contact GmbH

Donaustrasse 15
63452 Hanau
Germany