

General Terms and Conditions Act

from Eitzenberger Luftlagertechnik GmbH, Feichtmayrstrasse 17, D-82405 Wessobrunn

1. General

Legal transactions with our customers are subject to our general terms and conditions.

Differing agreements or general terms and conditions are only binding where confirmed by us in writing.

2. Conclusion of the contract

Our offering is subject to change. An order is only deemed as accepted if confirmed by us in writing.

Technical specifications in advertising materials do not constitute guaranteed features.

3. Prices

List prices as per our price list are valid ex works from delivery date, exclusive of VAT and packing.

4. Delivery and acceptance

Delivery takes place for the account and at the risk of the customer. This also applies if carriage-free deliveries are agreed. Partial delivery is permitted.

Packaging is in line with the industry standard and is charged at cost.

Should delivery be delayed through the fault of the customer, we are to be reimbursed for any costs arising.

Should we be prevented, by any unforeseeable hindrances that cannot be averted in spite of our reasonable attempts in the circumstances – whether arising in our company or with the supplier – from fulfilling our obligation to deliver, the delivery time shall be reasonably extended, even if there was already a delay in delivery.

If, due to these hindrances, delivery should subsequently prove to be impossible, we shall subsequently be entitled to withdraw from the contract.

Compensation claims for default or impossibility of performance are not permitted with regard to transactions with traders, unless there is willful intent or gross negligence on the part of our senior employees and ancillary staff.

Where transactions are with no traders, compensation claims are limited to proven loss, however set at a maximum of 10% of the invoice value of the goods, for the delivery of which we are in default or the delivery of which we have found to be impossible, unless there is gross negligence on the part of our employees and ancillary staff.

If the customer does not accept the goods, we are entitled to withdraw from the contract after a grace period of 14 days. There is no requirement to set a grace period if the customer refuses to issue acceptance irrevocably. Compensation claims are 30% of the value of the delivery not accepted, unless the customer notifies a lesser loss.

5. Notice of defects, warranty and liability

Apparent defects are only recognized by us if notified to us within 10 days of receipt but, in all cases, this must be in writing and before processing or installation and accompanied by the delivery note number.

We provide a warranty for warranted characteristics and freedom from defects under the manufacturer's warranty and according to the best available technology. Conditions for the warranty for goods delivered are the correct description of operating conditions and expedient use.

Liability under the warranty for defective goods is limited to subsequent supply or rectification of defects. Should these measures fail, the customer may request a lowering of the agreed price (reduction) or termination (annulment) of the contract.

No further claims are permitted, unless the loss is attributable to willful intent or grossly negligible breach of contract by one or several of our legal representatives or ancillary staff.

Alleged defects (even partial) in the delivery do not constitute an entitlement to withhold the disputed invoice amount.

Warranty claims are prescribed by the legally determined period.

6. Payment

Except when otherwise stipulated, our invoice amounts are firm. Account statement is due and payable. In the event of default of payment we are entitled to charge default interest at the rate of 8% (§ 288 BGB) above the respective base rate (according to § 247 Abs. 1 BGB).

7. Compensation

Any form of consultancy shall be within the given possibilities and to the best of our knowledge and belief, taking account of the manufacturing dates and information.

It is free of charge. We shall not be held liable unless this is mandatory under the prevailing legal provisions. Third party assurance shall only be effective if confirmed by us in writing.

Liability for all purchaser claims for compensation – with the exception of legal liability for default and warranted characteristics – is irrespective of whether it is based on legal conditions, tortious act, contractual agreements, breaches thereof, fault when concluding the contract or any other legal grounds, is limited as follows:

We and our ancillary staff and legal representatives are only liable for loss by the purchaser where this is caused by gross negligence. In all cases, we shall only be liable for those losses of the purchaser foreseeable by us, which, in nature and extent and in consideration of the circumstances, were known or culpably unknown to us on concluding the contract.

8. Retention of title

Goods delivered by us or our contractual partners shall remain in our ownership until full payment of the purchase price and any other outstanding account receivable under the business relationship. If the goods are resold permissibly, combined with other products or processed, the customer shall assign the accounts receivable incurred pro rata to the degree of joint ownership arising. He is authorized to collect accounts receivable unless we object. The customer has an obligation to notify us immediately of any impingement of the assigned accounts receivable, particularly if through pledge. On request, he is required to inform his contractual partners of the assignment in writing, provide us with the information we require to assert our rights and supply us with the necessary documentation. Retention of title also remains in force if payment is through a revolving account.

9. Copyright

Drawings, samples and other documents that are not part of the object of purchase shall remain in our ownership. They may only be made available to a third party with our permission and are to be released to us at our request. This particularly applies to planning- and/or consultancy-related drawings and samples, all company-owned documents and intellectual property in any form. This will remain unchanged, even if the customer has paid the development costs (even if proportional) to Eitzenberger Luftlagertechnik GmbH.

10. Partial invalidity

Partial invalidity of individual regulations shall not result in the invalidity of these conditions of sale.

11. Place of performance and jurisdiction

The place of performance for delivery is the respective dispatch destination for the goods. Place of performance for all customer undertakings is the place of business of Eitzenberger Luftlagertechnik GmbH.

Jurisdiction – including for actions on bills and checks – is also the place of business of Eitzenberger Luftlagertechnik GmbH where the customer is a registered trader.

The jurisdiction clause will also apply wherever the customer has no domestic general place of jurisdiction.

German law alone shall apply. Application of the United Nations Convention on Contracts for the International Sale of Goods, Vienna is not permitted.