



General Terms and Conditions for Sales and Delivery of Welland & Tuxhorn AG, Bielefeld

1 Scope

1.1

The General Terms and Conditions for Sales and Delivery of Welland & Tuxhorn AG, Bielefeld (hereinafter called ("Welland & Tuxhorn")) shall be applied exclusively. Conditions of the contractual partner (hereinafter called "Customer") contrary to or varying from these Terms of Sales and Delivery from Welland & Tuxhorn shall not be recognized unless Welland & Tuxhorn has expressly agreed to any such conditions in writing. These Terms of Sales and Delivery shall also apply when Welland & Tuxhorn without reservation carries out the terms of and has knowledge of any contrasting or own terms of sales and delivery on the part of the Customer.

1.2

The Terms of Sales and Delivery shall also apply for all future business with the Customer. These Terms of Sales and Delivery shall be recognized by the Customer when placing an order or upon acceptance of the goods at the latest.

1.3

These Terms of Sales and Delivery shall only apply to business partners.

2 Offer and Order Confirmation

2.1

Offers from Welland & Tuxhorn are always subject to change without notice. An order by the Customer shall only be considered accepted when it has been confirmed by Welland & Tuxhorn in writing. Changes and other agreements shall also only be binding when they are confirmed by Welland & Tuxhorn in writing. The written order confirmation or offer from Welland & Tuxhorn shall exclusively be definitive for the performance of all orders.

2.2

Welland & Tuxhorn currently has liability insurance coverage of up to € 5,000,000 for damage to persons and property. The Customer shall be obligated to inform Welland & Tuxhorn before closing the contract if the liability risk of Welland & Tuxhorn exceeds this amount due to any loss of business. In this case, Welland & Tuxhorn reserves the right not to conclude the contract or to agree on another liability or insurance solution.

2.3

If the order is qualified according to § 145 BGB, then Welland & Tuxhorn shall have the right to accept this within 4 weeks. The contract shall be concluded at the latest upon shipment of the goods ordered or for partial delivery, upon shipment of the first portion of the order.

2.4

Insofar as the Customer requires individual cost estimates, then these must be reimbursed. The costs shall be offset with the purchase price for commission orders. If the validity of the purchase contract concluded is voided for any legal reason whatsoever, then this obligation to reimburse for cost estimates shall remain.

2.5

The documents, drawings, weight and dimension information, samples, etc. contained in all offers are only approximate and do not represent characteristics of the goods. Welland & Tuxhorn shall have the right to deviate from the descriptions in the order provided these deviations are not significant or basic and the contractual purpose is not restricted.



2.6

Insofar as Welland & Tuxhorn produces parts in accordance with customer drawings, then the drawings prepared by Welland & Tuxhorn and approved by the Customer shall be definitive. Deviations from approved drawings are to be agreed upon separately and any additional costs for this are to be remunerated.

3 Industrial Property Rights

3.1

Welland & Tuxhorn reserves the property rights and copyrights on all diagrams, drawings, calculations, and other documents. This shall especially apply to those written documents that are described as "confidential". They may only be made accessible to third parties by the Customer after prior written agreement from Welland & Tuxhorn.

3.2

If deliveries are made using drawings or other information from the Customer and this violates any industrial property rights of third parties, then the Customer shall free Welland & Tuxhorn from any and all claims by said third parties.

4 Prices

4.1

Provided no other specification is made in the order confirmation, all prices will be invoiced "ex works", exclusive of packaging.

4.2

The prices listed are net; the value added tax in the legally applicable amount will be added to the net prices. Acceptance costs for classification societies shall be invoiced separately.

4.3

Any additional expenses which arise through desires for change can be charged to the Customer by Welland & Tuxhorn.

4.4

Should any event occur after conclusion of the contract which would increase the own costs of Welland & Tuxhorn for the production or shipping of the goods, especially an increase in the purchase prices for Welland & Tuxhorn or wage increases, then Welland & Tuxhorn shall have the right to increase its prices correspondingly.



5 Terms of Payment

5.1

Invoices are to be paid within 14 days of the date of the invoice without deduction. Discounts shall only be granted after express written confirmation by Welland & Tuxhorn.

5.2

Welland & Tuxhorn shall have the right to apply any payments made to the oldest, non-titled debt even if the terms of payment of the Customer state the contrary. If costs or interest have already arisen, then Welland & Tuxhorn shall have the right to apply payments first to the costs, then the interest, and finally the main service.

5.3

The right to offset debts shall only be granted to the Customer when and if any counterclaims have been legally determined, are undisputed, or have been acknowledged by Welland & Tuxhorn in writing. The right to refuse performance shall be limited to claims from the contractual relationship.

5.4

Welland & Tuxhorn shall have the right to demand interest for late payment of 8% over the base interest rate according to § 347 BGB. The right to demonstrate higher damages from late payment remains expressly reserved.

6 Delivery/Delivery Time/Late Delivery

6.1

Should the Customer wish to install the contracted goods himself, then Welland & Tuxhorn shall only be obligated to provide instructions for installation should the Customer demand this upon closure of the contract.

6.2

Delivery deadlines and delivery dates shall only be considered as binding when these are expressly agreed upon in writing. Welland & Tuxhorn shall not be bound to delivery deadlines and delivery dates when the Customer does not fulfill his obligations (making down payments, providing necessary documents, etc.) in time. The defense of non-performance of the contract remains reserved.

6.3

Delivery deadlines shall begin no earlier than the day on which the contract was closed in writing. The beginning assumes the prior settlement of all technical questions.

6.4

Welland & Tuxhorn shall be freed from maintenance of the delivery deadline or delivery date should the Customer desire later changes.

6.5

The delivery deadline is maintained when the object of delivery has left the plant of Welland & Tuxhorn or Welland & Tuxhorn has informed the Customer of readiness to ship before the expiry of said deadline.

6.6

The Customer shall have no right to recompense due to delays in delivery which are not due to willful intent or gross negligence on the part of Welland & Tuxhorn. This shall especially apply to delays in delivery due to acts of God. The delivery deadline or delivery date agreed upon shall then be postponed in such cases in accordance with the length of the obstacle to delivery.

6.7

Should the Customer be delayed in acceptance or should he violate his obligation to provide assistance, then Welland & Tuxhorn shall have the right to make claims for damages including any additional expenses. Welland & Tuxhorn shall also have the right to set a suitable deadline for acceptance on the part of the Customer and should this deadline expire fruitlessly, to withdraw from the contract and to demand damages instead of performance.



7 Retention of Ownership

7.1

Welland & Tuxhorn reserves the right of ownership of all parts delivered until receipt of payment from the delivery relationship including the receivables resulting in the future. Welland & Tuxhorn shall have the right to repossess the goods purchased in the case of behavior in violation of the contract, especially delays in payment.

7.2

The Customer shall be obligated to treat the goods delivered carefully and to insure the goods at their new value at their own cost against any form of loss during the period of retention of ownership. Welland & Tuxhorn shall retain the right to insure the goods itself at the cost of the Customer.

7.3

Costs for maintenance and inspection work are also to be borne by the Customer during the period of retention of ownership, even when this work is performed by Welland & Tuxhorn.

7.4

The Customer shall immediately notify Welland & Tuxhorn in writing of any attachments or other encumbrances by third parties so that Welland & Tuxhorn may make a suit of third party opposition. Insofar as the third party is not able to repay the court and legal costs of such a suit, the Customer shall be liable for said costs.

7.5

The Customer shall have the right to resell the object of sale in the course of orderly business; however he shall surrender to Welland & Tuxhorn all receivables up to the amount of the factored end sum (including value added tax) of the payable to Welland & Tuxhorn which results from the resale to his customer or a third party regardless of whether the good is resold with or without further processing. The Customer shall retain the right to collect on this receivable even after delivery. The right of Welland & Tuxhorn to collect on the receivable itself shall remain unaffected by this. Welland & Tuxhorn shall be obligated, however, to not collect the receivable as long as the Customer fulfills his payment obligations from the remuneration received, is not late in payments, and especially as long as no application to open bankruptcy proceedings have been made or a stop of payments exists.

7.6

If the goods delivered are inseparably mixed or connected with other objects not belonging to Welland & Tuxhorn, then Welland & Tuxhorn shall acquire co-ownership of the new or compound object in proportion to the value of the goods delivered (factored final sum, including value added tax) to the other objects or objects at the time of mixture or connection. The Customer shall preserve the resulting sole or co-ownership for Welland & Tuxhorn.



8. Shipping, Transfer of Risk

8.1.

Shipping shall take place at the risk of the Customer. The risk shall always be transferred to the Customer at the latest upon shipment of the goods to the Customer even if additional service of Welland & Tuxhorn is to be accepted.

8.2

Should shipping be delayed as a result of circumstances which are not the responsibility of Welland & Tuxhorn, then the risk shall be transferred to the Customer on the day the shipment is ready to be sent. The shipment from Welland & Tuxhorn can be insured against breakage, transport, fire, and water damage upon written request of the Customer.

8.3

Transport and all other packaging in accordance with the Law on Packaging shall not be taken back with the exception of pallets. The Customer shall be obligated to dispose of the packaging at his own cost.

9 Liability for Defects/Liability

9.1

Welland & Tuxhorn shall not be liable for damage resulting from improper handling, wear, storage, or other actions on the part of the Customer or other third party.

9.2

The legal claims resulting from liability for defects shall expire in one year starting from the time of transfer of the goods. No warranty of lifespan shall be provided by this.

9.3

The customer shall be obligated to fulfill his duty to examine the goods according to § 377 HGB even for resale of the goods.

9.4

Welland & Tuxhorn shall have the option to choose between remedying any defects and replacing the good.

9.5

The expenses that may be necessary to remedy any defects shall not be borne by Welland & Tuxhorn provided the expenses are increased because the good was moved to a location other than the commercial seat of the Customer. This shall not apply when the movement is in accordance with the proper usage of the good.

9.6

Should Welland & Tuxhorn have to bear expenses to examine a defect reported by the Customer and it turns out that no defect is present, then Welland & Tuxhorn shall have the right to demand recompense from the Customer for all expenses thus arising.

9.7

The right of recourse of the Customer against Welland & Tuxhorn for claims from liability for defects which the Customer receives from his buyers, shall be voided when the customer has not fulfilled his obligations to examine and file complaints or when the good was changed through further processing.



9.8

According to the legal provisions, the liability of Welland & Tuxhorn for claims for damages is not restricted when a violation of an obligation that can be traced to Welland & Tuxhorn is based on willful intent or gross negligence. Insofar as any violation of an obligation can be traced to Welland & Tuxhorn based on negligence and a significant contractual obligation is violated, then the liability for damages shall be limited to the foreseeable damage which typically occurs in such cases. Other liabilities are excluded.

9.9

The liability according to the provisions of the Product Liability Law shall remain unaffected by this. The liability for damage to life, body, and health shall also remain unaffected.

10 Non-assignment Clause

All claims of the Customer from the contractual relationship with Welland & Tuxhorn shall be non-assignable.

11 Product Liability

11.1

The Customer may only use the goods properly and must ensure that the good is sold only by persons who are familiar with the product risks and dangers.

11.2

The Customer shall be obligated to fulfill his obligation to warn of risks or dangers even when the good is used as a base material or semi-finished product in the Customer's own production when the end product is brought onto the market. In the internal relationship, the Customer shall free Welland & Tuxhorn from assertion of claims for damages from violation of this duty upon an initial request.

12 Miscellaneous

12.1

Place of performance shall be Bielefeld.

12.2

Place of venue for all disputes from the contract shall be Bielefeld. Welland & Tuxhorn shall, however, have the right to sue the Customer at the location of his place of venue or a place of venue where the Customer has a branch.

12.3

German law shall apply exclusively under exclusion of the UN Purchase Law.

12.4

Insofar as individual provisions of this contractual relationship are invalid or become so, then the validity of the remaining provisions shall remain unaffected by this. The parties shall make every effort to replace the invalid provisions with valid provisions which come as close as possible to the intended business purpose of the invalid clauses.