

Bernd Dümmig GmbH, NE-Metalle (Non-ferrous metals)

All sales, deliveries shall exclusively be based on the following terms and conditions.

1. Scope of application of the terms

The business relationship between Bernd Dümmig GmbH, NE Metalle, hereinafter referred to as Dümmig, and its Customer shall exclusively be based on Dümmig's General Terms and Conditions of Business. Customer's terms and conditions shall only apply to the extent that they do not contradict Dümmig's General Terms and Conditions of Business.

2. Scope and duty to deliver:

All quotations shall remain non-binding until written confirmation of the orders received. The statements given by us may not be made accessible to third parties.

3. Quotations and sales:

Quotations, also by telephone and wire, shall always be subject to change without notice and also to our terms and conditions. All agreements must have been confirmed in writing if they are to be binding.

4. Prices:

The prices stated in the quotations and order confirmations are subject to change without notice, i.e. if there is a change in the raw material prices, wages and costs underlying them at conclusion of the contract, the prices shall be increased accordingly. We can correct obvious errors on our part at any time. In the event of franco deliveries, the prices shall contain the lowest standard freight rates, but shall be exclusive of loading costs, demurrage and other charges. Unloading shall be charged to the consignee.

5. Delivery and dispatch:

Always done for Customer's account and risk, even if franco deliveries have been agreed. Form, route of dispatch or organisation of possibility of dispatch are reserved for us. For items lost in transport, claims to replacement must be addressed to the Federal Railways or the provider by the consignee. The consignee must have damage suffered by the transported items in dispatch certified immediately on the waybill, the delivery note etc.. No claims of any kind can be made against us. Part deliveries shall be permitted and shall be charged individually. In orders with approximate statements of quantity, up to 10% more or less can be delivered.

6. Packaging share:

Packaging shall be charged according to actual expenditure.

7. Delivery period:

The delivery period stated shall always be approximate and non-binding in any case. A certain warranty for compliance cannot be assumed. We must reserve the possibility of delivery and dispatch at any time. No claims can be derived from failure to comply with agreed delivery dates.

8. Passage of risk:

Any risk shall pass to the consignee at the moment at which the delivery leaves our works, even if it is provided to the consignee.

9. Excess or short delivery:

Depending on the nature of the goods to be dispatched, deviations in weight, quantity and dimensions of up to 10% shall be permitted in delivery, this also applying to part deliveries.

10. Preventions of delivery:

Incidents of force majeure, operational disturbances, lacks of raw and operating materials and similar cases shall entitle us to amend our delivery duties according to the scope of the plight in question and partly or totally cancel them. We shall be entitled to withdraw from the contract in the event of unfavourable information or also if detrimental effects are to be expected. Claims to damages of any kind from non-delivery or delayed delivery cannot be made.

11. Conclusions and calls:

If Customer does not accept the goods after the expiry of the agreed call period or after a repeated fruitless request, we shall be entitled, notwithstanding the rights resulting from law, to delete or to charge for the amounts not called partly or totally. In such a case, the invoice date shall be deemed delivery date. Risk shall pass to Customer with the issue of the invoice.

12. Liability for defects:

Defects must be notified in writing no later than 8 days after receipt of the goods or without delay following occurrence of the defects and within the notification period. Our liability shall exclusively be limited to subsequent performance or repeat delivery, at our choice. Further-reaching claims shall remain ruled out. We shall only assume warranty to the extent that the manufacturer itself assumes warranty. If the goods are not in the original condition on delivery or if they have been blended with others, we shall not be liable whatsoever. We cannot assume warranty for the fact that the goods supplied by us fulfil the various directives, ordinances or acts. All and any product liability of Eurofactor AG has been ruled out.

13. Non-assignability:

Customer may not assign its claims from the contract to third parties without our express written consent.

14. Supplier's right to withdrawal:

Prerequisite for the duty to supply shall be unconditional creditworthiness and credit standing of Customer. We shall be entitled to demand advance payments or collateral if unconditional certainty of payment is not guaranteed.

15. Retention of title:

We reserve title to all goods supplied by us until satisfaction of all our own claims and the claims of our affiliated companies, even if payments are made for specifically designated claims, this also applying if individual or all of our claims have been included in a current account and balance has been drawn and acknowledged. Collateral rights pursuant to the following sub-sections shall also be liable for said claims.

Machining and processing shall always be on behalf of Dümmig as manufacturer with no obligation for us. Customer may only sell property of Dümmig in customary business dealings at its normal terms and conditions of business and as long as it is not in arrears. It shall be entitled and authorised to sale of conditional commodities of Dümmig with the provision that the claims from the resale pursuant to the two previous sub-sections passes to Dümmig. It shall not be entitled to make other disposals of the conditional commodities, in particular transfer by way of security and pledging. Customer's claims from resale of the conditional commodities - also after processing or blending - are here and now assigned to Dümmig.

In the event of processing with goods still in outside possession, Dümmig shall acquire co-ownership of the new objects. The scope of said co-ownership shall result from the ratio of the invoice value of the goods supplied by Dümmig to the invoice value of the other goods (processing and blending provision). Customer hereby assigns the claim from a resale of the conditional commodities to Dümmig, also to the extent that the goods have been processed. If, alongside the conditional commodities, the processed product only contains objects which either belonged to Dümmig or have only been supplied under a simple retention of title, Customer shall assign the entire purchase price claim to Dümmig. In the other case, i.e. in the event of coincidence of advance assignments to a plurality of suppliers, a fraction of the claim shall accrue to Dümmig corresponding to the ratio of the invoice value of its conditional commodities to the invoice value of the other processed objects.

To claim retention of title, withdrawal from the contract shall only be necessary if Customer is a consumer. All rights accruing in Dümmig's favour from the agreed collateral agreements, in particular ownership by way of security and conditional ownership in all forms, have been assigned to Eurofactor AG. Customer shall be entitled to collect claims from the resale until revocation at any time by Dümmig. By request of Dümmig, Customer shall be obliged, to the extent that Dümmig does not notify its customers itself, to notify the customer of assignment to us and to prove notification to us and also to transmit the information and documents necessary for collection of the assigned claims together with this notification. Dümmig must notify Customer without delay of a seizure or any other impairment by third parties.

17. Release of collateral:

If the value of the collateral provided to Dümmig exceeds the latter's claims by a total of more than 20%, we shall be obliged to release the excess collateral at Dümmig's choice.

18. Non-performance:

In non-performance of the purchase agreement by Customer, the latter shall be obliged to reimburse the damage incurred by us at the time of performance of the contract.

19. Assignment

Claims from business relationships have been assigned to Eurofactor AG. Payments with a discharging effect can only be made to Eurofactor AG. Receipt of the credit on the account of Eurofactor AG shall be decisive for the time of payment.

20. Payment terms:

The payment terms stated on the order confirmation or on the invoice shall be decisive. To the extent that no other terms have been agreed, our invoices shall be due for payment immediately after the invoice date without deduction. Payments shall be due independent of delayed receipt of the invoice or the goods or of start of use of the goods, likewise independent of the right of notification of defects. In arrears in payment of more than one week, claims of all kinds not yet due for payment shall become due immediately. The same shall apply in the event of the personal or economic situation of the debtors causing our claims to appear jeopardised.

21. Offset

Rights to offset shall only accrue to Customer if its counterclaims are legally effective, undisputed or acknowledged. In addition, it shall only be entitled to exercise a right of retention to the extent that its counterclaim is based on the same legal relationship. This shall also apply in the event of a financial crisis with Dümmig.

22. Dimensions and weights:

The dimension or weight determined by us shall be exclusively decisive to the extent that no other regulation has expressly been agreed.

23. Data:

Dümmig shall be entitled to record, store, process, use information about the customer and forward it to third parties for securing, processing and use, in particular for collection of claims or outsourced debtor management.

24. Place of performance and place of jurisdiction:

Au am Rhein shall be the exclusive place of performance for all duties resulting from the contract. Place of jurisdiction for disputes with merchants shall optionally be the registered office of Dümmig or of Eurofactor AG (Oberhaching near Munich).

25. Scope of application:

By placement of an order, the terms and conditions shall be completely acknowledged by Customer. Amendments or additional agreements shall only apply if they have been confirmed by us in writing. This shall also apply to the provision of written form itself.

26. Applicable law

All relationships shall exclusively be governed by German law, ruling out UN purchase law. The regulations of the UN Conventions on Assignment of Claims in International Trade shall here and now be deemed agreed with the suspensive condition of the moment of their taking effect.