

Terms and conditions (AGB)

1. Validity

(1) All deliveries, services and offers of Caleg Schrank und Gehäusebau GmbH (subsequently also called "user") are effected exclusively based on these terms and conditions. These conditions are an integral part of all contracts which the user concludes with his contract partners (subsequently also called "customer") on the deliveries or services offered by him. They also apply to all future deliveries, services or offers to the customer and do not need to be separately agreed upon.

(2) Business terms of the customer or third parties will not apply, even if the user does not discount their validity in any individual case, insofar different terms will not apply. Even if the user refers to correspondence, which contains or refers to terms and conditions of the customer or a third party, this will not be understood as the user's consent to the validity of such terms.

2. Orders and Contract Conclusions

(1) All offers of the user are subject to change and non-binding unless they are expressly marked as binding or contain a specific acceptance period.

(2) Solely decisive for the legal relations between user and customer is the written confirmation of an order. The confirmation reflects in its entirety all agreements between the contract parties concerning the contents of the contract. Oral commitments of the user prior to the conclusion of this contract are legally non-binding, unless they are confirmed in writing. This also applies for supplements and modifications to the agreement, including these terms and conditions (constitutive double written form requirement).

(3) Information which the user gives about the object of the delivery or service (e.g. weights, dimensions, usage data, load, tolerances and technical data, etc.) as well as the depiction of the same (e.g. drawings and graphics) are only approximately decisive, unless the usability for the purpose stated in the contract requires a precise conformance. They are not guaranteed characteristics but rather a description and characterization of the delivery or service. Customary deviations and such deviations as result from legal regulations or which are technical improvements, as well as the replacement of component parts with parts of equal quality are admissible unless they impair the usability for the purpose stated in the contract.

(4) The user only supplies protective devices for any deliveries and services, if this is expressly agreed or legally required.

(5) The user reserves the ownership or copy right on all offers and cost estimates as well as drawings, pictures, calculations, brochures, catalogues, models, tools and other documentation and aids. Without the expressed consent of the user, the customer must not make these items themselves nor the contents of these items accessible to third parties, publish them nor use or copy them himself or have third parties use or copy them. On the user's request, he will return these items to the user in their entirety and will destroy possibly made copies once they are no longer required for due business proceedings or if negotiations do not lead to the conclusion of a contract.

(6) Files produced during the time between order initiation, order execution and order procession (in particular DXF- and step-format) and all rights in connection with these, are not sold by the user. Any further constructional or programming costs do not include these expenses. Purchase and use are subject to further agreements.

(7) Only the customer is liable for possible necessary approvals from authorities, beginning with the transfer of risk.

3. Prices

(1) The prices are valid for the scope of services and delivery stated in the order confirmation. Additional or special services will be charged separately. The prices are to be understood ex works, excluding packing, unloading, transport insurance and legal Value Added Tax, in the case of export deliveries excluding customs, fees and other payable duties.

(2) The minimum order value per order is 300 EUR net. If we accept orders below this minimum value,, the user charges charge a processing fee of 50 EUR.

(3) The deduction of discounts shall require a special and confirmed agreement.

(4) As far as the agreed prices are based on the user's list prices and the delivery will only be effected more than four months after conclusion of the contract, the user's list prices valid at the time of delivery will apply. Furthermore, the user shall be authorised to adjust the prices

afterwards if following conclusion of the contract there are cost increases due to wage agreements, increases of material prices or similar purposes. Any price adjustments always require corresponding proof.

4. Packaging and shipping

(1) The user's goods are packed in boxes or PE sheath, if not another agreement were made in writing. The costs arising will be charged according to expenditure as fixed in the offer. Disposal of packaging materials has to be taken care of by the customer at his own expense, where legally permissible.

(2) Insofar as the goods are delivered on returnable pallets, the customer is obligated due to rules of Cologne pallet exchange to the carrier.

(3) Delivery will be effected ex works.

(4) The type of shipment is the user's dutiful discretion, if not agreed on otherwise.

(5) Periods and dates of delivery and services estimated by the user are only approximate unless a firm period or date has been promised or agreed.

(6) The user can – irrespective of his rights arising from a delay on behalf of the customer – claim an extension of delivery and service periods or a postponement of delivery and service periods by the time in which the customer has not fulfilled his contractual duty towards the user.

(7) The user is not liable for the impossibility of a delivery or for delivery delays, insofar as those are caused by force majeure or other incidents unpredictable at the time of contract conclusion (e.g. the disruption of operation of any kind, difficulty in the procurement of material or energy, transport delays, strikes, lawful lockouts, shortage in manpower, energy, or raw material, difficulties obtaining necessary regulatory permits, regulatory measures or a missing, incorrect or delayed delivery by suppliers) and which the user is not responsible for. Insofar as such events complicate the delivery or service substantially for the user and the impediment is not only temporary, the customer is authorized to cancel the contract. In case

of temporary impediments, delivery or service periods will extend or be postponed by the time of the impediment plus an appropriate starting period.

(8) The user may make a partial delivery if

- the partial delivery can be used by the customer according to the contractual intended purpose,
- the delivery of the remaining items ordered is guaranteed and
- the customer will not be confronted with a considerable extra expense or additional cost (unless the customer declares that he is willing to bear such cost).

(9) The customer must not refuse to accept supplies and services because of negligible defects.

(10) Compensation claims due to improper performance are excluded or limited due to clause 7.

5. Passing of risk

(1) The risk will pass to the customer at the latest when the item is handed over to the carrier, hauler or otherwise to a third party commissioned with the transport (determining is the start of the loading process).

(2) If the shipment or the transfer are delayed due to a circumstance for which the customer is responsible, the risk will pass over to the customer on the day that the user is ready for shipment and has informed the customer accordingly.

(3) Storage cost after the passing of risk will be borne by the customer. If the user is in charge of storing the items, storage will cost the usual amount the adequate storage costs.

6. Payments

(1) Invoice amounts are payable within 15 days without any discount unless something different has been agreed in writing. Partial deliveries are permitted and can be invoiced separately.

(2) If the customer defaults on payment, the user shall be entitled to demand default interest to the statutory amount, § 288 para 1 BGB (German Civil Code). The assertion of any further loss shall not be excluded hereby.

(3) The compensation of counterclaims of the customer or the retention of payment due to such claims is only admissible insofar as such counterclaims are indisputable or legally determined.

(4) The user is authorized to execute still outstanding deliveries or services only against prior payment, if he learns after the contract conclusion about circumstances which would be suitable to considerably diminish the creditworthiness of the customer, and which would endanger the payment to the user by the customer of any outstanding claims resulting from the existing contractual relation.

7. Warranty, liability

(1) The delivered items must be inspected without delay after handover to the customer or any third party designated by the customer. The items are considered approved unless the user receives a notice concerning obvious defects or other defects which were discernable in an immediate and thorough examination, within ten days after handover of the items. At the user's request the object of complaint must be returned to the user free of charge. In case of a justified notice of defect the user will reimburse the customer with the most economic shipment cost; this does not apply if the shipment cost increases because the object of complaint is in a location different from the location of designated use.

(2) In case of material defects at the supplied items the user is first obligated and entitled to a rectification or substitute delivery, this at the choice he makes within an appropriate period. The user may exercise this right twice. In case of failure, i.e. the impossibility, unreasonableness, rejection or inappropriate delay of the rectification or substitute delivery, the customer may cancel the contract or reduce the purchase price appropriately.

(3) Claims on the part of the customer for costs incurred for the purpose of subsequent performance, particularly costs for transport, road, labour, material, are excluded, insofar as this expenditure is increased because due to the fact that goods supplied by the user are sent to a different location than the customer's location.

(4) Defect claims do not apply if there is only a minor deviation from the agreed nature of the goods, minor impairment of usability, natural wear or damages incurred after passing of the risk because of incorrect or negligible handling. Moreover the warranty will not apply if the customer modifies or has a third party modify the object delivered without the user's consent.

(5) If a defect is caused through the user's fault, the customer may claim damages as per the conditions stated in para. 8.

(6) The warranty period is 12 months, beginning with the passing of risk, unless the law rules a shorter period or requires a longer period of time.

(7) Recourse claims due to § 478 BGB (German Civil Code) do only apply, if there are agreements between the customer and his consumers, that go beyond the statutory requirements.

(8) Further claims shall be excluded, if a defect was not fraudulently concealed or a guarantee of the quality of the item was given.

(9) The user is not liable for damages for loss of life, bodily injury or damage to the health, taht was not cause by at least negligence or by intention or grossly negligence of one of the user's representatives or persons engaged in the performance of the obligation. Furthermore the user is not liable to any damages taht is not at least caused by groosly negligent conduct.

Insofar as the user is liable on the merits for damages, such liability is limited to damage which the user foresaw at the conclusion of the contract as a possible consequence of a contract violation or should have foreseen using care and attention and taking into account the circumstances which he knew or should have known. Indirect damage and such damage which is a consequence of defects of the object delivered, is liable to compensation only insofar as such damage is to be typically expected with the designated use of the object delivered.

Insofar as the user gives technical advice or acts as a consultant and such advice or consultation is not part of the service he owes as per contractual agreement, such action is free of charge and excludes any liability.

(10) The abovementioned limitations do not apply to the user's liability for intentional behaviour, for guaranteed characteristics, for a violation of life, body or health or his liability as per the product liability law.

8. Retention of title

(1) The retention of title agreed in the following serves for securing all existing current and future claims of the user against the customer resulting from the relations of service and delivery between the contract parties (including balance claims deriving from a current account limited to these delivery relations).

(2) The goods delivered to the customer by the user remain the user's property up until the complete payment of all secured claims. The goods as well as the subsequent goods covered under the retention of title according to this clause will be referred to as reserved goods hereafter. The customer will store the reserved goods free of charge for the user. The customer is authorized to use or sell the reserved goods until the point of enforcement in regular business operation. Hypothecations and chattel mortgaging are not allowed. If the customer processes the reserved goods, it is agreed that the process is effected in the name and on the account of the user as the manufacturer and that the user will immediately acquire ownership, or joint ownership (partial ownership) of the newly created goods in relation to the value of the reserved goods to the value of the newly created goods – in case the production contains materials from several owners or the value the newly created goods is higher than the value of the reserved goods. In case no such acquisition of ownership goes into effect for the user, the customer shall already now transfer to the user his future ownership or – in the aforementioned relation – joint ownership of the newly created goods as the user's collateral security. If the reserved goods are combined with other goods to create new uniform goods or if they are inseparably mixed with other goods and one of the other components is to be regarded as the main goods, the user, insofar as the main goods belong to him, will transfer to the customer the share of joint ownership in the uniform goods in the stated relation.

(3) In case of a resale of the reserved goods, the customer shall for reasons of collateral security of the user already now transfer to the user the resulting claim against the buyer either entirely or partially – in case of joint ownership of the reserved goods according to the share he owns. The same applies to other claims which will replace the reserved goods or otherwise arise regarding the reserved goods, as e.g. insurance claims or claims from unlawful acts in the case of loss or destruction. The user revocably authorizes the customer to collect claims transferred to the user in his own name on account of the user. The user may revoke this direct collection authorization only in case of an enforcement.

(4) The customer shall, upon request, announce names and addresses of the consumers, the amount of the outstanding claims, date of the invoice, etc. and to give any necessary information to assert the claims.

(5) If third parties access the reserved goods, especially also through hypothecation, the customer will immediately advise them of the user's ownership and will inform the user about it to enable him to enforce his ownership rights. If the third party is not able to reimburse the cost created in court or outside of court to the user, the customer will be liable for such cost.

(6) Upon request, the user is obligated to release the security rights, as the value of these rights exceed the claims by at least 20%.

(7) If the user cancels the contract in case of the customer's behaviour contrary to contract – especially payment delay (enforcement situation), he is authorized to claim the surrender of the reserved goods.

(8) The user enjoys a right of lien on any items brought into the offices for all present and future claims against the customer due to single contract or framework contract (including any balance demands related to the limited current account). In other respects, the statutory regulations shall apply. The abovementioned right of lien also applies to expectant rights.

(9) If the customer is a merchant, Calau shall be the place of performance in respect of deliveries and services, if legally admissible.

(10) Any disputes under or in connection with this agreement shall be exclusively settled in Senftenberg.

9. Data protection, applicable law

(1) The user is entitled to collect, save and process data, that were entrusted due to conclusion or transaction of the contract.

(2) This agreement shall be governed by the laws of the Federal Republic of Germany, excluding application of the provisions of international private law and of the UN CISG.

10. Written form, severability clause

(1) Oral orders or collateral agreements have to be confirmed in writing by the user to be valid.

(2) Should any provisions of these conditions, or any provision incorporated into these conditions in the future, be or become invalid or unenforceable, the validity or enforceability of the other provisions of these conditions shall not be affected thereby.

(3) The invalid or unenforceable provision shall be deemed to be substituted by, and the parties shall be deemed to have agreed upon, a suitable and equitable provision, which to the extent legally permissible, comes closest to the content of the invalid or unenforceable provision or to the presumed intent of the parties if they had considered the matter.