

Terms of Sale, Delivery, and Payment

Der STATEX Produktions- und Vertriebs GmbH, Kleiner Ort 11 - 28357 Bremen

I. Scope of validity

1. All of our consignments and services on the basis of contracts of sale and/or contracts for work (hereinafter: consignments), including future consignments, are carried out exclusively in accordance with these terms and conditions. Supplementary or deviating standard business conditions of the customer are only valid if we have expressly agreed upon them with the customer. The trading conditions of the customer or third parties shall not apply even if we have not expressly opposed them in the particular case. Even if the customer refers to a letter, which includes or refers to the customer's or a third party's trading conditions, the application of those trading conditions is not accepted thereby.
2. Our terms and conditions are valid only in dealings with persons who in concluding a legal transaction with us do so within the framework of their commercial or self-employed professional activity (businesspersons as defined by § 14 BGB [German Civil Code]). This also includes legal entities under public law as well as special funds under public law.

II. Conclusion of the contract, quality of the goods

1. Our quotations are without engagement and not binding. A contract is brought about only with our written confirmation or with shipping of the goods. Transmission by telefax or by e-mail meets the form requirement.
2. The decisive data for the contents of the contract are our quotation, our written confirmation of order, as well as the present terms and conditions. Other agreements with regard to execution of the contract, in particular subsequent amendments, supplements, or collateral agreements only count as contents of the contract if we have expressly agreed upon them with the customer. Any such agreements shall be set forth in writing. Transmission by telefax or by e-mail meets the form requirement. Except for the managing directors or the authorised signatories (German Prokurist), our employees shall not be entitled to come to any deviating agreement or covenant any supplements with legal effect.
3. Only those characteristics and features of our consignments that are expressly designated as agreed quality in our quotation and in our confirmation of order are deemed to be agreed quality. The mere mention of a characteristic or a feature in an appendix to the quotation or to the confirmation of order (for example in illustrations, drawings, dimension sheets) is not sufficient for this. Other or additional characteristics and features are only deemed to be agreed quality if we have expressly agreed upon them with the customer. Any such agreements regarding quality shall be set forth in writing.
4. We reserve the right to effect technical, design-related, and customary deviations from descriptions and data in leaflets, catalogues, and written documents as well as changes to models and other changes to a reasonable extent in the wake of technical progress, insofar as this does not impair the suitability of the product for the stipulated purpose.
5. Declarations with regard to the quality and durability of our consignments only represent a guarantee of quality and/or durability if we have expressly designated these to be guaranteed. The declaration of guarantee shall be set forth in writing.

III. Delivery, passage of risk

1. If not expressly agreed anything to the contrary with the customer, the risk of accidental

loss / accidental deterioration of the consignment shall be transferred to the customer as soon as the consignment leaves our factory ("ex works" as defined in the latest applicable INCOTERMS) or as soon as the consignment is handed over to the freight forwarder or carrier; this shall also apply to legitimate partial deliveries. If shipment or handover is delayed due to circumstances for which we are not answerable, the risk shall be transferred to the customer on the very day when the consignment is ready for dispatch and the customer has been notified thereof.

2. We shall be entitled to make partial deliveries if the customer can use them within the scope of the stipulated intended use, if delivery of the remainder of goods is ensured, and if the customer will not incur any significant extra expenditure or additional costs thereby.
3. Should the customer ask for other insurances (against damage by theft, transport, fire, and water, etc.), the costs accruing in this connection shall be at the customer's expense.

IV. Delivery periods, delivery holdups

1. The delivery period is considered to be kept if the consignment leaves our factory or is handed over to a freight forwarder / carrier within the specified period. Should a delay occur, which is not attributable to us, the advice of readiness for shipment to the customer shall be decisive.
2. Compliance with the agreed delivery periods presupposes the compliance with the following terms of payment and other obligations by the customer. If these conditions are not fulfilled in good time, the deadlines shall be extended by a reasonable length of time, unless we are answerable for the delay. Subsequent wishes of the customer for changes extend the agreed delivery time by a reasonable length of time.
3. Insofar as we have timely concluded a correspondingly timed cover transaction with our upstream supplier, the delivery dates named by us are subject to the reservation that deliveries to us are properly effected in good time. We are entitled to withdraw from the contract if we – due to a fault which cannot be attributed to us – are unable to keep the delivery dates and periods agreed with the customer because deliveries to us have not been properly effected in good time. In such a case we are obliged to notify the customer without delay of the non-availability of the consignment and to reimburse to the customer any counter-performance without delay.
4. If the delivery is delayed for reasons for which we are answerable, we bear liability only and exclusively in accordance with the legal regulations subject to the following limitations of liability.

V. Prices and payments

1. Our prices are net ex work not including turnover tax, loading, packaging, freight charges, postage and, for export shipments, the customs duties and fees as well as insurance, except and unless we have expressly agreed anything to the contrary with the customer. Price agreements shall be set forth in writing.
2. We reserve the right to adjust our prices accordingly if our production and delivery costs increase after conclusion of the contract due to circumstances for which we are not answerable (for example wage tariff increases, increases in prices of materials, increases in taxes) and we will inform the customer about the increase in price in good time prior to delivery. The same applies if the customer wishes to change the delivery date and we incur additional costs as a result.
3. Our invoices are due and payable without any deduction immediately upon receipt of the invoice. Payment does not count as having been effected until we can finally dispose of the money.
4. Should any endangerment of our claims for payment due to an inability or limited ability of the customer to pay become perceivable, we shall be entitled to make all receivables deriving from the respective contractual relationship with the customer which are not yet due and

payable, immediately due and payable insofar as we have already delivered our consignment. Such an endangerment exists if information from a bank or a credit-reporting agency indicates the lack of creditworthiness of the customer.

5. If the customer fails to pay on due date, we are entitled to interest on payments in arrears in accordance with the legal regulations.
6. The customer can only set off undisputed or legally established counter-claims. Furthermore, the customer shall be entitled to make use of its right of retention only insofar as its counter-claim is based on the same contractual relationship.

VI. Force majeure

1. Cases of force majeure (unforeseen circumstances and occurrences, for which we are not culpable and which could not have been avoided through the due care and diligence of an ordinary and prudent businessperson, for example industrial disputes, war, fire, transport holdups, shortage of raw materials, pandemic, action by the authorities) suspend our obligations for the duration of their existence and the extent of their effects. In case of temporary impediments, the dates of delivery and performance are extended by the period of the impediment plus a reasonable starting period. This also applies if we are already in default.
2. Should it be established by force majeure that the contract definitely cannot be accomplished anymore or cannot be accomplished within a reasonable period of time, we shall be entitled to rescind the contract. In this respect, we are obliged to notify the customer without undue delay of the non-availability of our consignments and performances and to reimburse the customer any counter-performance made without undue delay.

VII. Customer's rights and obligations in the case of defects

1. The customer shall immediately examine our consignments and performances for defects. The customer shall notify us of recognisable defects without delay; however, at the latest within eight working days. The period for examination and for filing complaints starts at the moment of surrender. The customer shall notify us of any hidden defects without delay after these have been discovered. If the customer omits to immediately examine the consignment and to file a complaint in good time, the customer may not stand on its rights in case of defects.
2. If the customer has performed its obligations to examine and to make a complaint, the following shall apply:
 - a) If the quality of our consignment deviates from the agreed quality to an immaterial extent only, the customer shall only have a right to an appropriate reduction of the price. If no quality has been agreed upon, the standard quality shall apply.
 - b) In case of considerable deviations, the claims of the customer due to defects are initially limited to the right to subsequent fulfilment. We have the right to choose between rectification of the defect and substitute delivery. Should the rectification or substitute delivery fail, be unreasonable, denied, or inadequately delayed, the customer shall be entitled to its other rights in case of defects defined by law. Subsequent fulfilment is deemed to have failed after the second attempt without success if notably the nature of the object, or the defect, or other circumstances do not produce any other result.
 - c) Should we, pursuant to the aforementioned, be liable to pay damages instead or in addition to the performance, the extent of our liability shall be governed by VIII.
3. If only individual consignments from among several consignments sold are defective, any legal right of the customer to rescind the contract is limited to these consignments. This also applies if the consignments were sold as belonging together, except and unless the defective products or systems cannot be separated from the others without damage or if such separation is unconscionable for the customer. The customer shall set forth the reasons of

unconscionability. The preceding regulations apply by analogy with regard to individual defective parts of a consignment insofar as the consignment remains usable apart from these parts.

4. The warranty shall not be applicable if the customer modifies the supplied item or has it modified by third parties without our consent, and elimination of the defect is hence impossible or rendered unreasonably difficult. In any case, the customer undertakes to bear the additional costs arising from the modification.

VIII. Limitations of liability, exclusion of withdrawal from the contract

1. Any liability for culpable fatal injury, personal injury, or injury to health remains unaffected; this shall also apply to any mandatory liability arising from the ProdHG [German Product Liability Act]. The same shall apply to fraudulent intent.
2. We shall be liable as defined by statutory provisions in case the customer asserts claims for damages due to intent or gross negligence by us, our agents, or vicarious agents or due to breach of an essential obligation under the contract. If we are not charged with intentional or grossly negligent breach of contract, the liability for damages shall be limited to the foreseeable, typical damage. A foreseeable, typical damage does not include lost profit or consequential damage of the customer. For the case of slight negligence our liability shall be limited to the benefits and contractual sums of the manufacturer's and product liability insurance we have taken out and which we will present to the customer upon request. Insofar as the insurance we have taken out, does not pay benefit (e.g. because of retention or annual maximisation), we pay damages ourselves in case of slight negligence up to the amount insured at maximum.
3. In any other case, claims for damages against us, whether arising from the contract or not, irrespective of the statutory basis, shall be excluded.
4. Insofar as our liability is excluded or limited in accordance with the preceding paragraphs, this shall also apply to the liability of the persons employed in the performance of our obligation and our vicarious agents.
5. Rights of the customer to withdraw from the contract due to a violation of obligation for which we are not answerable and which does not consist in a defect of the goods, are excluded.
6. Insofar as we have granted the customer certain rights within the framework of a warranty of quality or of durability, such rights remain unaffected by the aforementioned limitation of liability.

IX. Delivery of single-use products in B2B

Should we deliver single-use products to the customer within the scope of B2B, the following shall apply regarding warranty and liability:

1. Warranty
 - a) The customer shall examine the consignment – even by processing the product as a trial – immediately upon receipt for defects, wrong delivery, and wrong quantity.
 - b) In case of apparent defects and nonconformity we shall immediately be notified in writing or within eight days upon receipt of the consignment at the latest and in case of hidden defects and nonconformity immediately upon detection. We reserve the right to examine such goods for defects and nonconformity before recognising any claim.
 - c) With the start of further processing and treatment of the delivered goods at the latest, potential warranty claims against us will be subject to extinction.
 - d) In case of defects for which we are answerable, we will deliver substitute goods free of charge as rectification of the defect is impossible. Should the substitute delivery be impossible, we will credit the purchase price to the customer's account.
2. Liability

- a) If the customer becomes responsible for the product, the following shall apply: the customer assumes the product liability towards third parties pursuant to domestic or foreign law. The customer undertakes to process and settle, if applicable, all claims, including any necessary costs for defence, filed by a third party regarding the product and exempts us from such claims and any costs incurred in this context.
- b) The customer is entitled to have recourse against us if and insofar as the damage caused by a production defect was based on grossly negligent or deliberate misconduct by us. The recourse shall be limited to the amount covered by our product liability insurance.
- c) Liability for slightly negligent violation of obligation shall be excluded.
- d) Claims for damages by the customer due to delay or impossibility of delivery shall be limited to one third of the purchase price for that part of the consignment subject to delay or non-delivery.
- e) §§ 474 et seq. BGB [German Civil Code] shall not apply insofar as the delivered goods are an intermediate product requiring further processing by the customer to become a finished product.
- f) Claims of the customer beyond this, especially for reimbursement of loss of profit as well as compensation for other harm or consequential harm caused by a defect, no matter on what legal ground, shall be excluded as far as permitted by law.

X. Limitation periods

1. Claims of the customer due to a defect in the consignments become statute-barred after one year.
2. In deviation of the provision above, the statutory limitation periods apply to the following claims of the customer:
 - a. on account of damage resulting from injury to life, limb, health or from the violation of a major contractual obligation,
 - b. on account of other damage resulting from an intentional or grossly negligent violation of obligations by us, by our legal representatives, or by our vicarious agents,
 - c. on account of a fraudulent concealment of a defect.
3. The regulation under IX, Item 2 applies by analogy in respect of the customer's rights to withdraw from the contract due to a violation of obligations, for which we are not answerable and which does not consist in a defect of the goods.
4. Claims of the customer deriving from a warranty of quality or durability become statute-barred after one year; the start of the statutory limitation period depends on statutory provisions.
5. Our claims against the customer become statute-barred in accordance with the legal regulations.

XI. Retention of title

1. Our consignments remain our sole property until all claims and receivables (including all balance claims from current accounts) against the customer accruing to us now or in the future for any legal reason whatsoever will have been settled.
2. The processing or transformation of our consignments by the customer is always carried out on our behalf. If our consignments are processed, transformed, inseparably mixed, or joined with other objects that do not belong to us, we acquire the co-ownership of the new object in the ratio of the value of our consignments to the value of the other processed object at the time of processing, transformation, mixing, or joining. If the other object is to be seen as the main object, it is now already agreed that the customer shall confer pro rated co-ownership upon us. We accept this transfer of co-ownership. The customer shall keep free of charge our jointly owned property in safe custody for us. Apart from this, the same applies to the product arising as a result of the processing as applies to the consignments that we delivered with reservation.

3. The customer is entitled to process and to sell our consignments in the proper way of business as long as the customer is not in default with its financial obligations towards us. Pledging or transfer by way of security shall be prohibited. The customer herewith already assigns to us any and all claims arising from the further sale of our consignment (including all balance claims from current account), insurance claims, as well as claims against third parties on account of damage, destruction, theft, or loss of the goods. We accept this assignment of claims. If we have only co-ownership in the consignments delivered by us, this advance assignment of claims shall be limited to that part of the claim that corresponds to our share of co-ownership. In the case of the further sale of the consignments, the customer shall reserve title to same vis-à-vis its customers until the purchase price has been paid in full. The customer is not entitled to resell the goods to third parties if the claim for payment of the purchase price deriving from reselling is subject to a ban on assignment.
4. We revocably authorise the customer to collect the sums due to us for the customer's own account and in the customer's own name. This authorisation to collect can be revoked if the customer fails to properly meet its obligations to pay towards us or if our claims appear to be endangered due to the inability or limited ability of the customer to pay. On demand, the customer shall name to us the debtors of the sums due. If the customer assigns its receivables from reselling of goods within the framework of genuine factoring, the customer shall notify us of this. The customer already assigns to us its claim against the factor deriving from the assignment of the claims for payment in the amount of the claim that was to be thus secured.
5. In the case of seizure or attachment by third parties of consignments that fall under our retention of title, the customer shall draw attention to our title and shall notify us without delay. Potential intervention costs shall be borne by the customer, to which we will progressively assign any claims against the third party for the reimbursement of costs against payment of the intervention costs.
6. The customer is entitled to demand the release of receivables from us insofar as the value of our security exceeds our receivables to be secured by more than 10 %. Which receivables shall be released, is at our choice.
7. The customer will insure the consignments which are our property, against loss and/or destruction. For deliveries abroad, the customer will ensure that we will be granted a corresponding security interest by separate agreement, which covers the extended reservation of title.

XII. Industrial property rights and copyrights, licences

1. We reserve our rights of ownership and copyright in respect of illustrations, drawings, and other documents, as well as documentation provided to the customer, as well as all industrial property rights without any restrictions. These must not be made accessible to third parties without our express consent. Such consent shall be given in writing. The same applies to corresponding rights of other manufacturers in their illustrations, drawings, and documents.

XIII. Applicable law, place of performance, place of jurisdiction

1. The contract is exclusively governed by German substantive law, to the exclusion of the UN Agreement concerning Contracts for the International Sale of Goods (CISG) as well as to the exclusion of possible conflict of law rules and regulations of determination of the municipal system of law.
2. The place of performance for our consignments ex works is the corresponding dispatching factory or warehouse. The place for payment for the customer is our company's domicile in Bremen/Germany.
3. The exclusive mutual place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be Bremen/Germany if the customer is a businessperson, a legal

person under public law, or a special fund under public law. However, we also have the right to take legal action against the customer at its general place of jurisdiction.

4. Also in the case of cross-frontier consignments, the exclusive place of jurisdiction for all disputes arising from the contractual relationship shall be Bremen in the Federal Republic of Germany. We reserve the right to also have recourse to any other court that is competent and responsible at the local and international level.
5. If the customer's domicile is beyond the Federal Republic of Germany but within the European Union, the customer shall be committed to compliance with the Turnover Tax Law applicable in the European Union. The customer is obliged to give notice of its VAT ID and to make available necessary information as to the customer's status as entrepreneur, the use and transport of our consignments, and the statistical obligation to register.
6. The customer consents to storage and processing as defined by the European General Data Protection Regulation EU-GDPR, of the data disclosed within the scope of the contractual relationship and business relation as far as this is required to execute the contract, in particular to handle the job and to render customer support services. In this respect, the customer's interest shall be taken sufficiently into account.
7. Should the agreement entered into be incomplete or should single provisions of the agreement be or become ineffective – entirely or partly – this shall not affect the validity of the remaining provisions. The parties agree to replace the invalid provision by and/or supplement the agreement with a valid provision which comes as close as possible to the original intention the parties had in mind without this provision or with the invalid provision.

XIV. Export permits

1. The export of consignments and/or technical know-how can be subject to domestic and/or foreign export control requirements. The customer undertakes to observe all applicable export control requirements and to impose this on a potential taker.

As of April 2020