

General Terms and Conditions

I. Scope

1. Our goods, services and offers are provided solely on the basis of these General Terms and Conditions. The Terms and Conditions hence also apply to all pending and future business transactions with us, including where they are not expressly agreed.
2. Terms and conditions of the customer that are contrary to our conditions are hereby rejected. These shall also not be binding upon us where they are not expressly contradicted by us on conclusion of contract.

II. Offers and conclusion of contract

1. Our offers are subject to confirmation and non-binding. Acceptance of our non-binding offer and all orders shall only be effective where these are confirmed in writing within one month of receipt.
2. All contracts and agreements require written form indispensably. The same applies for subsidiary agreements, supplements and amendments of all kinds, which are only valid where they have been confirmed in writing by us.
3. Details regarding material weights and requirements are based on years of experience and are stated as approximate values as a calculation aid. However, this does not release the customer from his duty to check without delay. Irregularities must be clarified prior to the processing of the materials supplied. A subsequent complaint shall not be acknowledged.
4. Samples and patterns shall be regarded as average quality.
5. In the event of the purchaser withdrawing from a job order that has been assigned, he shall be obliged to pay a compensatory amount of 20% of the order value. In the case of custom products the order shall be obliged to pay the full order amount.
6. For the return to storage of construction materials 15% of the value of the goods shall be charged, plus any transport costs incurred, in addition to the compensation for withdrawal from the job order.

V. Delivery

1. Delivery times shall only be binding upon us where they are expressly and unmistakably agreed as such in writing.
2. The binding delivery time shall be extended by the period in which we, without culpability, are hindered in the execution of the job order. In particular, we shall not be responsible for hindrances caused by force majeure or other occurrences that we cannot influence and which render delivery significantly more difficult or impossible for us, such as strike, lockout, regulatory action etc., including where these occur with our suppliers or sub-suppliers. However, we shall inform our customer of such hindrances to delivery without delay.
3. If the hindrance lasts longer than three months, the customer shall be entitled, following a reasonable, written period of respite, to withdraw from the contract, to the extent that this has not yet been fulfilled.
4. We shall be liable for delays in delivery for which we are responsible pursuant to section VIII.
5. We are entitled to make partial, excess or short deliveries as are customary in the trade. In the case of loose materials, deliveries that are 10% excess or short deliveries may not be the subject of complaint.
6. Delivery free to construction site is subject to navigable access for a 40 t truck. The construction site or any other place of delivery must have both access and departure routes as well as an unloading area suitable for both the material and the material quantity. The unloading point must be suitably illuminated for manoeuvring. If these delivery prerequisites are not in place, then the purchaser alone shall be wholly liable for all subsequent loss and additional costs. Liability on the part of the freight forwarder or us is excluded.

VI. Transfer of risk

Risk shall be transferred to the customer as soon as the consignment has been handed over by us to the person conducting the delivery, or has left our warehouse for shipment. Should shipment prove impossible due to no fault of ours, then risk shall be transferred to the customer with our notification of readiness for shipping. The delivery note date shall be the delivery date.

VII. Defects

The materials that we offer shall be delivered in accordance with our prior experience and may deviate due to the properties of the raw materials used. The processor must have sufficient general craft and construction knowledge for defect and damage-free processing. This also applies for processing by the end consumer himself. The processor must inspect the respective conditions on site and adapt the construction materials to the specific situation.

Heavy clay products are manufactured in a natural firing process. Samples are therefore to be regarded as average goods. The applicable standards, permits or notifications of a federal ministry are definitive for the goods that are to be delivered. In the case of individual pieces of our 1st choice ceramic production small defects may occur due to material and fabrication, in particular minor deviations in form or colouring. These shall not be deemed to be significant where they do not inhibit the overall appearance of the covering where applied expertly.

1. The customer is to inspect our delivery without delay for defects, identity and quantity. Irregularities must be clarified prior to the processing of the materials supplied. Subsequent complaints shall not be acknowledged.
2. Apparent defects must be reported within a deadline of 10 days, beginning with delivery, in the form of a registered letter, otherwise the enforcement of the guarantee claim is excluded. Goods that are the subject of complaint may only be returned with our authorisation.
3. Where there is a risk of consequential damage as a result of defective material, processing is to be ceased immediately. Liability for avoidable consequential damage is excluded.
4. In the case of complaints due to defects not apparent on receipt the written notification shall be made immediately following discovery. Complaints that are reported with a delay shall result in loss of rights, as shall the failure to observe written form.
5. Defects in part of the delivery shall not entitle complaint regarding the entire delivery.
6. In the case of orderly and justified complaint our guarantee shall be limited to rectification or replacement delivery, at our discretion. Further costs, in particular compensation or costs of installation or removal, shall not be borne by us.
7. In the event of rectification of the defects proving unsuccessful, the customer may request either lowering of remuneration (reduction) or reversal of the contract (redhibitory action), at the choice of the customer. In the event of minor contractual breach, in particular in the case of minor defects, the customer shall have no entitlement to withdrawal, however.

8. Blending of the materials supplied by us with third-party construction materials or failure to observe our processing guidelines shall lead to the exclusion of the guarantee and liability for the subsequent consequences.

VIII. Limitations of liability

1. To the extent that we are liable for key contractual obligations (cardinal obligations) and in the case of breach of other obligations, for our vicarious agents and representatives, our liability shall be limited to intent and gross negligence. We shall be liable to the amount limited to typical foreseeable loss, unless our senior employees manifest intent or gross negligence. Further liability is excluded.
2. Compensatory claims of the customer due to defect shall lapse after one year from delivery of the goods. This shall not apply where we may be accused of malice.

IX. Retention of title

1. All delivered goods remain our property until complete payment of all current and future claims arising from the business relationship. Processing or transformation is always undertaken on behalf of us as manufacturer, albeit without obligation for us. The customer shall store the property for us at no charge. Goods to which we have title are referred to hereinafter as privileged goods.
2. The customer is entitled to resell the privileged goods, whether unprocessed or processed, only within the scope of orderly business transactions and to the extent that he is not in default. The customer assigns claims (including all balance claims on current account) from the disposal or other legal grounds (insurance, tort) regarding the privileged goods to us in full at this point for reasons of security. At our request the customer shall be obliged to provide us with the information required to enforce our rights against his customers and to allow inspection of his records. The customer is revocably authorised to collect the claims assigned to us for his own account and in his own name. This collection authorisation may only be revoked where the customer fails to observe his payment duties in an orderly manner. If the value of the securities assigned to us exceeds the value of our claims by (consistently) more than 20%, then we shall be prepared, at the request of the customer, to release security of our choice. In the case of third-party interference in the privileged goods the customer shall be obliged to refer to our title and notify us without delay.
3. In the case of conduct contrary to the contract on the part of the customer – in particular default of payment – we shall be entitled to take back the privileged goods or demand assignment of the claims for restitution of the customer towards third parties. In the case of taking back or pledging of the privileged goods by us this shall not constitute withdrawal from the contract – to the extent that the (German) instalment payment act is not applicable.

X. Assignment

Assignment of the claims against us is excluded.

XI. Place of Performance

The law of the Federal Republic of Germany applies for all legal relations between us and our customer.

Place of performance is Cottbus.