

General Terms and Conditions of Argeton GmbH (AGB)

1. Scope

These general terms and conditions are the foundation of all offers and contracts as well as deliveries of goods and services from Argeton GmbH (referred to in the following as "seller") in business transactions with business people. Deviating agreements and purchase conditions from the client are only binding when they are confirmed in writing by the seller. The contract language is German and English. In the case of contradictions, the English version is authoritative in countries where German is not an official language and in others the German version is authoritative.

2. Offers and Prices

(1) The seller's offers are always subject to change until a contract is concluded. Contractual obligations for the seller are only established if and when they are confirmed by the seller in writing. Every order is binding with respect to its technical specifications once the order is confirmed. Changes are then only possible in return for an added price and can lead to new delivery deadlines. Changes to orders can only be submitted to the seller up to five weeks before the delivery deadline. Additional obligations with respect to the confirmed order only arise for the seller if the seller has confirmed them in writing.

(2) Excess deliveries: In the case of orders that are produced in object-specific processes, excess deliveries are possible for reasons of production technology and the customer must accept them as reasonable. The seller however may only bill an excess delivery of at most 5 % of the ordered quantity.

(3) Prices are understood as ex works. The list prices in effect on the day of shipment are billed if other prices are not expressly agreed on. The VAT in effect at the time of shipping will be added. Customs fees, tariffs and other fees to be charged on the goods will be borne by the client. If significant cost increases occur between the conclusion of the contract and deliveries, whose magnitude was not foreseeable and for which the seller cannot be held responsible (especially for raw materials, energy and personnel), the prices must be re-negotiated.

(4) The seller's employees are not authorized to make oral side agreements or give oral assurances that would be the seller's responsibility and go beyond the content of the written contract.

3. Composition and Pattern

(1) Ceramic products are homogeneous mass-produced goods that are predominantly manufactured in a natural firing process. If nothing else is agreed to, the goods will be delivered in compliance with authoritative (DIN-) norms in conventional factory sorting.

(2) Patterns, samples, illustrations and descriptions made available by the seller are to be seen only as non-binding review objects. The same applies analogously for statements of dimensions, weight, colour, form and other characteristics from the seller.

(3) Due to the peculiarities of ceramic manufacture, no guarantee can be provided for any irregularities within the conventional tolerances. Minor deviations do not justify any complaints.

(4) Reference to relevant (DIN-) norm constitutes merely a description of the goods and not a guarantee of quality in the sense of § 443 BGB (German Civil Code). A guarantee of quality and durability must be agreed upon expressly as such or labelled.

4. Delivery and Transfer of Risk

(1) Deliveries proceed ex works or ex stock. The client and/or its pick-up agent is responsible for proper loading and load securing in conformity with § 412 HGB. The risk of accidental loss or peioration of the good transfers to the client once loading starts even if direct delivery is agreed on. If the shipping or acceptance is delayed for reasons for which the seller cannot be held responsible, the risk already transfers to the client when the notice readiness for dispatch is received.

(2) When the finished good is stored by the seller and this goes beyond the agreed-upon delivery deadline along with a tolerance period of 14 days, the client will be billed a storage fee of 3.00 EUR per pallet and week started. The seller is entitled at own discretion to store the good elsewhere, to the extent that this is justified for due and sufficient – especially operational – reasons. In the event of storage elsewhere, the client will be charged the actual fees accumulated plus a reasonable processing fee.

(3) If the client does not pick up the good for whatever reason within one month of the notice of readiness for dispatch or comes into default of acceptance of the delivery, wholly or partly, it must, without prejudice to other rights of the seller, pay, starting from the beginning of the second month and in addition to

the storage fees, a fee of 10.00 EUR per pallet and starting from the beginning of the fourth month onward, a fee of 20.00 EUR per pallet for each week started as a contractual penalty. If the client still has not accepted the good wholly or in part even after the four months have passed, the seller is entitled to sell the good or otherwise commercially exploit it. The intent to take such measures must be communicated to the client with a period of two weeks before they are taken. Once this period expires, the seller's obligation to deliver ends. It reserves however the claim to payment of the purchase price for the good not accepted and to payment of the contractual penalties accumulated to that point. To this it can only have credited what it would have received for the re-sale or commercial exploitation if the good was not sold or otherwise commercially exploited within two months due to own gross negligence. Once this period expires the seller is entitled to dispose of the good at cost to the client. Contractual and legal rights to withdraw as well as any claims to compensation for additional damages are not impacted by the agreements stated above.

(4) If direct delivery is agreed upon, this will be done at cost and risk to the client. The client must make sure that the unloading point can be driven on by heavy truck trailers, there is a suitable unloading area and that the delivery vehicle is unloaded quickly and professionally. If these preconditions are not met, the client is liable for any damages and expenses that result.

(5) Delivery deadlines and delivery periods require expressed agreement. They are only binding if they are confirmed in writing by the seller. If the contract is changed, the delivery period is only binding if it is confirmed in writing by the seller again.

(6) Any disruptions in business operations for which the seller cannot be held responsible or in pre-delivery, especially work stoppages or lock-outs as well as cases of force majeure, which derive from an unforeseeable event for which no one is culpable, extend the delivery times correspondingly. If these disruptions make fulfilment impossible, the seller can withdraw from the contract once the client has been informed of this impossibility.

5. Liability for Defects

(1) The client must inspect the delivered good immediately after it is received. Obvious defects, differences in quantity or incorrect shipments must be reported in writing before any combination, mixing or processing of the delivered good, but at the latest with 5 days of acceptance of the good; in the case of delivery of goods with defects that are not obvious, within 5 days of their being noticed. The seller is to be given the opportunity to review the complaints that are communicated and to be present when samples are taken for material testing.

(2) The minor damages that occur during manufacture, transport or processing of heavy clay products, such as deviations in form or colour or efflorescences that do not significantly detract from the customary use, as well as breakage typical of the trade, cannot be objects of complaints.

(3) In the event of a timely and justified complaint of defect, the seller can, at its discretion, remedy the defect or provide replacement goods. If replacement shipments or repairs fail or if they require disproportionate effort, the client can – without prejudice to any claims to compensation for damages under Number 6 of these general terms and conditions – withdraw from the contract or demand a reduction of the purchases price. Warranty claims against the seller are only held directly by the buyer and cannot be transferred to third parties.

(4) If the delivered good is processed in spite of obvious defects or deviations in colour, the client's claim to subsequent fulfilment is limited to a replacement shipment of goods free of the defect. The expenses for the removal or disposal of defective goods and the installation of the repaired goods or subsequent shipment of goods free of defect are in this case not to be refunded. Likewise, any claims to recourse against the seller according to §445 a BGB are excluded within the legally permissible limits.

6. Claims to Compensation for Damages

(1) Claims from the client to compensation for damages arising from whatsoever legal grounds are excluded. This provision only makes exception for claims to compensation for damages that fall under the Product Liability Act or arise from a breach of contractual obligation as well as claims to compensation for damages that arise from intentional malice or grossly negligent breach of contract on the part of the

Seller. In the case of injury to life, limb or health, the seller is also liable for even minor negligence in breaches of contractual obligations. Any breach of contract by a legal representative or temporary employee is equivalent to breach of contract by the seller.

7. Payment

(1) Invoices are due and payable immediately and this within 30 calendar days from the billing date without discount, if nothing else is agreed upon. The determining factor for the timeliness of payment is the receipt of funds (crediting the value to the bank account). A deduction of discount is only permissible on condition of expressed agreement. The calculation of a possible discount amount will be done, if nothing else is arranged, based on the value of the unpacked goods ex works. Cheques and bills of exchange will only be accepted for fulfillment purposes. Discount, expenses and costs for bank transfers, letters of credit or bank guarantees, etc. will be borne by the client.

(2) If payment is late (once 30 calendar days have passed from the billing date), the seller will charge legal default interest in the amount of 9 % above the base interest rate according to § 247 BGB. The assertion of damages going beyond this is reserved. If default on payment continues assertion of damages going beyond this remains reserved. If the default on payment continues even after dunning, the seller is entitled to make future deliveries contingent on prepayment. In the case of justified doubts concerning the client's creditworthiness (e.g. continuing failure to properly observe the terms of payment), the seller is additionally entitled to immediately call all open – even deferred –invoiced amounts and demand immediate payment in cash or the payment of securities. This does not apply if the client has brought a legitimate complaint about a shipment.

(3) The client can only offset against the seller's claims with undisputed or legally established counter-claims or exercise a right of retention.

8. Reservation of Title and Securing Receivables

(1) The delivered good remains property of the seller until all claims from the business relationship are paid in full (good under reservation of title). The exercise of the reservation of title does not simultaneously imply withdrawal from the purchase contract. The client is entitled to re-sell the good under reservation of title in normal business transactions. Taking out a lien on or giving the good as a security however is not permitted. It is obligated to secure the rights of the seller to the good under reservation of title when re-sold on credit. The client's claims deriving from the re-sale of the good under reservation of title are assigned to the seller here and now. The client remains so entitled until the claims are collected and as long as it meets its obligations toward the seller and does not enter into financial collapse. The client must provide the information necessary for collection on request; it must notify its creditors of the assignment and give the seller the documents required for collection in copy form. The client will perform any working or processing of the good under reservation of title for the seller without this engendering any obligations for the seller.

In the event of processing, combining, mixing or mingling of the good under reservation of title with other goods that do not belong to the seller, the seller obtains a share in co-ownership of the new item in proportion to the value of the good under reservation of title to that of the other goods processed at the time they were processed, combined, mixed or mingled. If the client obtains sole ownership to the new good, it is agreed that the client grants the seller in proportion to the value of the processed and/or combined, mixed or mingled good under reservation of title to the new item and will store this item for the seller free of charge. If the good under reservation of title is sold together with other goods, and that regardless of whether before or after processing, combining, mixing or mingling, the advanced assignment agreed upon will only apply in the amount of the billed value of the good under reservation of title which is re-sold with the other goods. The client must notify the seller immediately of any measures of levies of debt enforcement or other attachments of third parties to the good under reservation of title or the claims assigned in advance, handing over the documents necessary to intervene in the matter. In the same way, he is required to notify the creditors of the seller's reservation of title.

(2) The seller is commits to release the securities given according to the provisions stated above at the choice of the seller and on written demand from the client only to the extent that the value of the securities exceeds the claims to be secured by 10 %. In the case that all claims from the business relationship are paid in full, the ownership of the good under reservation of titled and the assigned claims are transferred automatically to the client.

9. Place of Fulfilment, Court of Jurisdiction, Applicable Law

(1) The place of fulfillment is in each case the delivering factory or the warehouse belonging to the seller.

(2) The court of jurisdiction is Hannover, to the extent that the preconditions of §38 ZPO (Code of Civil Procedure) are met

(3) The law of the Federal Republic of Germany applies to all contractual relationships.

10. Data Protection

The client grants consent that its personal data, to the extent that these are necessary in the context of the contractual relationship, will be stored at a central location under compliance with the German Federal Data Protection Act and the General Data Protection Regulation. The same applies to data on offers.

11. Concluding Provision

Should individual provisions of these general terms and conditions be or become unenforceable, the enforceability of the remaining provisions will not be affected. The legal regulations of German law apply supplementally.

Argeton GmbH
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