

Terms of delivery and payment of Wöhner GmbH & Co. KG**I. General**

1. These terms and conditions of delivery and payment shall apply to all our deliveries, services and offers as well as to all future transactions without the need for any further reference.
2. Deviating and/or supplementary terms and conditions of the customer which we do not expressly accept in writing are not binding for us, even if we do not expressly object to them. Our terms and conditions of delivery and payment shall also apply if we fulfil our contractual obligations without reservation in the knowledge of the customer's terms and conditions to the contrary.
3. These terms and conditions of delivery and payment shall only apply if the orderer is a legal entity under public law or a special fund under public law. The same shall apply to purchasers who exercise a commercial activity abroad that is comparable with that of a domestic purchaser as well as to foreign institutions that are comparable with domestic legal entities under public law or with a domestic special fund under public law. The Purchaser is a natural or legal person or a partnership with legal capacity who, when concluding a legal transaction, acts in the exercise of his commercial or independent professional activity.

II. Conclusion of contract

1. All agreements between us and the customer concerning the contract and its execution must be in text or written form.
2. Our offers and the drawings, illustrations, dimensions, weights and other performance data contained therein are subject to change and non-binding unless they are expressly marked as binding or contain a specific acceptance period. We shall be bound by the prices in offers expressly marked as binding for the acceptance period stated in the offer.
3. If the order of the customer is an offer according to § 145 of the German Civil Code (BGB), we can accept this offer within two weeks of its receipt, unless the customer has specified a different acceptance period.
4. A contract is concluded with the content of our written order confirmation. Should there be no order confirmation in an individual case or should the contract be concluded without an order confirmation, our offer shall be decisive for the content of the contract. If the buyer and the seller have jointly signed a written document concerning the delivery and this document contains all the terms of the contract, this document is equivalent to a written order confirmation.
5. If an export licence is required for the performance of the contract, the conclusion of the contract shall be subject to the condition precedent that the export licence is granted.

III. Subject of the contract

1. We deliver the products named in the order confirmation with the specification as described in the order confirmation or on our website www.woehner.com.
2. The customer himself determines the composition and use of the products supplied by us. We shall only advise him in this respect if this has been expressly agreed.
3. Installation, configuration and instruction are only part of our duties if this has been expressly agreed.

IV. Delivery

1. The delivery dates and deadlines promised by us are always only approximate, unless a fixed deadline or date has been expressly promised or agreed.
2. Compliance with a fixed delivery date or a fixed delivery period shall be conditional upon the Purchaser fulfilling its obligations to cooperate.
3. However, Wöhner shall not be liable for impossibility of delivery or for delays in delivery insofar as these are caused by force majeure or other events unforeseeable at the time of conclusion of the contract (e.g. natural disasters and pandemics, operational disruptions of all kinds, difficulties in procuring materials, transport delays, strikes, lawful lockouts, shortages of labour, energy or raw materials, official measures or the failure of suppliers to deliver or to deliver correctly or on time) for which Wöhner is not responsible. Insofar as such events make delivery and performance significantly more difficult or impossible for Wöhner and the hindrance is not only of temporary duration, Wöhner shall be entitled to withdraw from the contract. In the event of hindrances of temporary duration, the delivery or performance deadlines shall be extended by the period of the hindrance plus a reasonable start-up period. Insofar as the Purchaser cannot reasonably be expected to accept the delivery or service as a result of the delay, the Purchaser may withdraw from the contract by means of an immediate written declaration to Wöhner.
4. We are entitled to make partial deliveries and render partial services if
 - the partial delivery or partial performance is usable for the customer,
 - the residual delivery and residual performance is ensured and
 - the customer does not incur any significant additional expenditure or additional costs as a result of the partial delivery or partial performance, unless we declare that we are prepared to bear these costs.
5. In addition, delivery deviations of excess/shortfall quantities of up to 10 % of the delivery quantity are permitted for custom-made products.
6. There is no entitlement to returns. For returns that we accept after prior written confirmation, we charge a processing fee according to our current price list. Returns are only possible within the first 14 days after delivery and in closed original packaging. Packaging, insurance and transport costs for returns will not be reimbursed by us.

V. Default of acceptance

1. If the customer is in default of acceptance, fails to cooperate or delays our delivery for other reasons for which the customer is responsible, we are entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). We shall charge a flat rate for this according to our current price list at.
2. The proof of higher damages and our statutory claims (in particular compensation for additional expenses, damages) shall remain unaffected; however, the lump sum shall be offset against further monetary claims. The customer shall be entitled to prove that we have incurred no damage at all or only less damage than the aforementioned lump sum.

VI. Prices, shipping, liability for transport damage

1. We reserve the right, even after conclusion of the contract before delivery and after timely notification of the buyer, to increase our prices in accordance with increases in our own external costs beyond our control. These include in particular cost increases due to exchange rate fluctuations, increases in fees, duties or taxes, increased transport costs and increased prices of raw materials and supplier parts. We will reduce our prices to the same extent to the extent that the aforementioned costs are reduced or eliminated.
2. Precious metal surcharges are invoiced separately according to the previous day's quotation on the day the order is received. Our prices are based on a quotation of 200,- € per 100 kg copper, 185,- € per 100 kg brass and 180,- € per kg silver.
3. All list and quotation prices are net, unpacked ex works, plus statutory VAT.
4. Our deliveries and services will be invoiced without any discount and with a processing fee according to the current price list.
5. In addition, we charge a packaging and transport surcharge as well as insurance costs according to the current price list. In addition to this, the costs incurred for the road toll, irrespective of the agreed delivery condition, will be shown and charged separately.
6. Special requests of the purchaser (e.g. delivery to an address other than that of the purchaser, express delivery, special packaging, commissioning of a specific carrier) shall be taken into account as far as possible. Any additional costs incurred as a result shall be borne by the customer.
7. Unless otherwise agreed, payment of the pro rata tool costs by the Purchaser shall not entitle the Purchaser to the tool. The tool shall remain the property of Wöhner. This shall also apply to rights to exclusive developments.
8. The risk shall in any case pass to the customer upon dispatch ex works, even in the case of partial deliveries, even if carriage paid delivery has been agreed in individual cases. If the goods are ready for dispatch and the dispatch or acceptance is delayed for reasons for which we are not responsible, the risk shall pass to the customer upon receipt of the notification of readiness for dispatch.

VII. Payments

1. Invoice amounts received are to be paid within 30 days of the invoice date without deduction.
2. The customer shall be in default in accordance with the statutory provisions, in particular 30 days after the due date and receipt of an invoice or equivalent statement of claim. Payments shall be deemed made on the day on which we can dispose of the amount. From the date of default, the statutory default interest of 9 % points above the base interest rate shall be charged. We may grant the customer a grace period of 10 days and, after the unsuccessful expiry of this period, either declare our withdrawal from the contract in writing and demand compensation for damages or continue to demand payment of the purchase price.
3. In the event of dishonour of cheques or bills of exchange, cessation of payments as well as an application for the opening of insolvency proceedings against the assets of the customer, all our claims - even in the event of a deferral - shall become due immediately.
4. The purchaser may only declare a set-off if his counterclaims are undisputed, recognised by us in writing or have been legally established. The customer is only entitled to exercise a right of retention insofar as the undisputed counterclaim recognised by us in writing or legally established is based on the same contractual relationship.

VIII. Retention of title

1. We retain title to the goods until all claims arising from an ongoing business relationship have been settled in full.
2. The customer is obliged to treat the goods with care. The customer is obliged to inform us immediately of any access by third parties to the goods, for example in the event of seizure, as well as any damage to or destruction of the goods. The customer must notify us immediately of any change of ownership of the goods and of his own change of residence.
3. We are entitled to withdraw from the contract and to demand the return of the goods in the event of behaviour contrary to the contract on the part of the customer, in particular in the event of default in payment.
4. The customer is entitled to resell the goods in the ordinary course of business. He already now assigns to us all claims in the amount of our invoice amount which accrue to him against a third party through the resale. We accept the assignment. After the assignment, the customer is authorised to collect the claim. We reserve the right to collect the claim ourselves as soon as the customer does not properly fulfil his payment obligations and is in default of payment.
5. The processing of the goods by the customer shall always be carried out in our name and on our behalf. If processing is carried out with items not belonging to us, we shall acquire co-ownership of the new item in proportion to the value of the goods delivered by us to the other processed items. The same shall apply if the goods are mixed with other objects not belonging to us.

IX. Duty to examine and notification of defects

Our deliveries and services must be carefully inspected immediately after delivery or performance. The purchaser must notify the seller immediately and in writing of any material defects and/or defects of title. If the item to be delivered is to be installed in another item, the inspection must be carried out before installation.

X. Warranty

1. Our deliveries and services are free of material defects if they correspond to the agreed quality at the time of transfer of risk. The agreed quality results exclusively from the specification as described in the order confirmation or on our website www.woehner.com.
2. The functionality, interoperability, compatibility and durability of our deliveries and services are only part of the agreed quality insofar as this has been expressly agreed.
3. If a quality has not been agreed, our deliveries and services shall be free of material defects if they are suitable for the contractually intended use.
4. Insofar as assembly instructions are part of our deliveries and services, we shall only assume warranty for defects in the instructions insofar as these have led to improper assembly.
5. There are no further requirements for freedom from material defects beyond the requirements specified in items 1 to 4.
6. The information in the offer and in the order confirmation does not constitute a guarantee of quality within the meaning of § 443 of the German Civil Code (BGB), unless this has been specifically agreed.

XI. Supplementary performance

1. If the delivered item is defective, we may initially choose whether to provide subsequent performance by remedying the defect (rectification) or by delivering an item free of defects (replacement). The rectification shall only be deemed to have failed if we have unsuccessfully attempted to rectify the defect at least twice. Furthermore, our right to refuse subsequent performance (rectification or replacement delivery) under the statutory conditions remains unaffected.
2. Subsequent performance does not include the removal of the defective item or its re-installation, unless we were originally obliged to install it. This provision does not apply to transactions involving consumers in the supply chain.
3. We shall bear the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs, if there is actually a defect. Otherwise, we may demand reimbursement from the customer of the costs incurred as a result of the unjustified request for rectification of the defect (in particular inspection and transport costs), unless the lack of defectiveness was not recognisable to the customer. Any obligation to bear installation and removal costs remains unaffected.
4. If subsequent performance has failed or if a reasonable period to be set by the Purchaser for subsequent performance has expired unsuccessfully or is dispensable under the statutory provisions, the Purchaser may withdraw from the contract or reduce the purchase price and claim damages or reimbursement of expenses. In the event of an insignificant defect, there shall be no right of rescission. In the event of withdrawal from the contract, we shall refund the purchase price less reasonable compensation for the use made of the goods up to the time of reversal.

XII. Limitations of the warranty rights

1. In the event of material defects and defects of title, claims of the customer for damages or reimbursement of futile expenses shall only exist in accordance with section XIV. and are excluded beyond that.
2. The assignment of warranty rights against us is not permitted without our written consent.
3. In the event of defects of co-sold components of other manufacturers which we cannot remedy for licensing or factual reasons, we shall either assert our warranty claims against the manufacturers or suppliers for the account of the Purchaser or assign them to the Purchaser. Warranty claims against us shall only exist in the case of such defects under the other conditions and in accordance with these terms and conditions if the legal enforcement of the aforementioned claims against the manufacturer and supplier was unsuccessful or is futile, for example due to insolvency. For the duration of the legal dispute, the limitation period for the relevant warranty claims of the Purchaser against the Seller shall be suspended.
4. If changes are made to our services without our consent, parts are replaced or materials are used that do not comply with our original specifications and if this makes the defect analysis or defect rectification impossible or unreasonably difficult, any warranty rights shall lapse. In the aforementioned cases, we shall be entitled to compensation for unnecessary defect analysis and defect rectification costs. The same applies if our operating or maintenance instructions are not followed or if our services are not used in accordance with the contract or our product specification or our operating instructions. The same applies if our services are used together with services of third parties and this use contradicts our product specification or our operating instructions or if the defect in the service is based on design documents or other specifications provided by the customer. The above provisions shall not apply if the customer proves that the defect is not due to the aforementioned circumstances.
5. All statutory and contractual warranty claims of the customer shall become statute-barred within two years after delivery in the case of new goods. The warranty period shall not recommence if the defect is remedied or a new delivery is made. This shall not apply if the law prescribes longer periods than two years, in particular in the case of intent, fraudulent concealment of the defect and non-compliance with a quality guarantee. Claims for reimbursement of expenses of the Purchaser pursuant to § 445a BGB (recourse of the Seller) shall also become statute-barred after two years from the statutory commencement of the limitation period, provided that the last contract in the supply chain is not a purchase of consumer goods. For claims for damages clause XIV.
6. Recourse claims of the orderer against the seller according to § 445 a BGB (recourse of the seller) exist only insofar as the orderer has not made any agreements with its consumer that go beyond the statutory claims for defects. Necessary expenses shall only be reimbursed if the orderer submits a copy of the consumer's purchase receipt, a description of the defect and proof of the necessary expenses.

XIII. Industrial property rights / copyrights

1. The intellectual property rights to all specifications, drawings, offer documents, illustrations, calculations, technical descriptions, source codes or other technical information, irrespective of their format or medium (hereinafter collectively referred to as "Technical Information") and to all products, assemblies, contractual items, etc. delivered or provided in connection with this contract shall remain exclusively with us. This shall apply irrespective of whether the delivery or service is made to the Purchaser or to third parties.
2. The purchase of the respective object of purchase does not transfer any licences, rights of use, property rights, rights equivalent to property rights or other intellectual property rights of us or our suppliers. Excluded are the rights mandatorily associated with each purchase.
3. If third parties assert claims for infringement of industrial property rights or copyrights against the customer due to the use of the delivery/service by the customer, the customer must inform us immediately in writing. In such cases, we reserve the right to take all defensive and extrajudicial measures for legal defence. The purchaser must support us in this.
4. We shall only be liable for the infringement of industrial property rights or copyrights of third parties if these rights are due to the respective third party for the territory of the Federal Republic of Germany or the country to which the delivery is to be made or the states in which the object of purchase is to be used according to the purpose of the contract expressly declared in at least text form. The latter shall only apply insofar as the states covered by the purpose of the contract have been expressly designated in the order confirmation.
Orders based on drawings, sketches or other information provided to us shall be executed at the risk of the customer with regard to patent, design and trademark rights. If the execution of such orders results in the infringement of third-party property rights, the customer shall bear any damage incurred by us as a result of such infringement.

XIV. Liability for damages and reimbursement of expenses

1. Our liability for damages or reimbursement of expenses, irrespective of the legal grounds, in particular for impossibility, delay, defective or incorrect delivery, breach Page 9 from 12 of contract, breach of duties during contractual negotiations and tort, shall be limited in accordance with Sections 1 to 10, insofar as fault is relevant in each case.
2. We shall not be liable in the event of simple negligence on the part of our executive bodies, legal representatives, employees or other vicarious agents, insofar as this does not involve a breach of material contractual obligations. Material contractual obligations are those whose fulfilment characterises the contract and on which the customer may rely.
3. In the event of simple negligence, liability for the breach of material contractual obligations shall be limited to the amount of damage foreseeable at the time of conclusion of the contract and typical for the contract.
4. We shall only reimburse expenses in the amount of the contract-typical and foreseeable expenses. Expenses are only typical for the contract and foreseeable if they have been communicated by the customer up to the conclusion of the contract for the case of defectiveness of our deliveries and services. The amount of the reimbursement of expenses is limited to three times the price of our defective deliveries and services.
5. The exclusions and limitations of liability contained in this section XIV. shall apply to the same extent in favour of our organs, legal representatives, employees and other vicarious agents.
6. Insofar as we provide technical information or act in an advisory capacity and this information or advice is not part of the contractually agreed scope of services owed by us, this shall be done free of charge and to the exclusion of any liability.
7. Liability for a loss of data for which we are responsible shall be limited to the costs of duplicating the data from backup copies to be made and for restoring the data that would have been lost even if the data had been backed up regularly and in a manner commensurate with the risk.
8. The above limitations of liability shall not apply to intentional or grossly negligent breaches of duty, to guaranteed characteristics or to the express assumption of a procurement risk, on account of injury to life, limb or health or under the Product Liability Act and/or under any other mandatory statutory liability provisions.
9. A reversal of the burden of proof is not associated with the above provisions.
10. Our liability is excluded unless otherwise agreed in this clause. XIV. anything to the contrary has been agreed.

XV. Anti-corruption/compliance

The customer undertakes to comply with all statutory provisions, in particular those relating to the fight against corruption, competition and antitrust law. In particular, he assures that he will not offer, promise or grant any inadmissible advantages to our employees or persons close to them. The same obligations apply to the purchaser's employees, its vicarious agents and other third parties who act on the instructions of the purchaser and are to be obliged by the purchaser accordingly.

XVI. Product liability

The purchaser is obliged to support us in any measures required on the basis of our product liability, in particular to inform us of the users of our products and to cooperate in recall campaigns.

XVII. Information sharing within the Group

1. Information brought to our attention by the Purchaser shall be deemed to be non-confidential unless it is specifically marked as such or the confidentiality is obvious.
2. We are entitled to pass on the data that has become known to us from the business relationship with the customer to companies affiliated with us (§§ 15 ff. German Stock Corporation Act), insofar as this does not conflict with provisions of data protection law.
3. We are entitled to name the purchaser as a reference in press releases, public statements or advertising activities using its publicly accessible logo (e.g. on the website).

XVIII. Disposal

1. When disposing of the goods, the purchaser must observe our information accompanying the goods and ensure that the goods specified on the delivery note are disposed of properly in accordance with the statutory provisions.
2. The purchaser is obliged to dispose of the goods at his own expense. In the event of resale of the goods or their components, the Purchaser shall transfer this obligation to the next Purchaser.

XIX. Export

1. Our performance of the contract is subject to the proviso that an export licence is granted and that there are no obstacles to the performance of the contract due to national or international regulations of foreign trade law as well as no embargos and/or other sanctions.
2. The Purchaser undertakes to provide the necessary information and documents required for compliance with the relevant (re-)export control regulations and for the performance of export control inspections by authorities.
When passing on our deliveries or the work and services provided by us to third parties, the customer must comply with the applicable provisions of national and international (re-) export control law. In any case, the (re-)export control regulations of the Federal Republic of Germany, the European Union and the United States of America must be observed when passing on deliveries to third parties.
4. The customer shall indemnify us against all damages resulting for us from the culpable breach of the above obligations pursuant to clauses 1 to 3.

XX. Place of performance and jurisdiction

1. The place of performance for all obligations arising from the contractual relationship shall be the registered office of Wöhner.
2. The place of jurisdiction shall be - insofar as the purchaser is a registered trader - at our discretion Coburg or the registered office of our respective locally competent sales company.
3. The contractual relations shall be governed by German law to the exclusion of the international conflict of laws rules and the United Nations Convention on Contracts for the International Sale of Goods (CISG).

Price list

- 1. Processing fee**
10.00 EURO for orders with a gross goods price below 100.00 EURO
- 2. Packaging and shipping surcharge**
2.5 % of the delivery value (net goods price)
- 3. Insurance costs**
1 % of the delivery value (net goods price)
- 4. Returns**
10 % of the delivery value (net goods price), but at least 30 EURO
- 5. Lump sum for default of acceptance**
0.5 % of the delivery value (net goods price) per calendar week, but not more than a total of 10 % of the delivery value (net goods price), beginning with the expiry of the delivery period (provided the goods are ready for dispatch at that time) or - in the absence of a delivery period - with the notification that the goods are ready for dispatch.

(All prices quoted are net and subject to statutory VAT).