



# Conditions of sale

ECO Schulte GmbH & Co. KG

■ SYSTEM TECHNOLOGY FOR THE DOOR



#### Item 1 Scope of the Conditions of Sale

1. The following Conditions of Sale shall apply for all deliveries, performances and offers of ECO Schulte GmbH & Co. KG (hereinafter referred to as "Vendor"). For future business relationships, these Conditions of Sale shall also be considered as included, even if they have not been expressly referred to again.
2. General Terms and Conditions of the Customer are rejected. They shall only be considered agreed when and so far as the Vendor has expressly agreed to them in writing.

#### Item 2 Offer and conclusion of contract

1. The offers of the Vendor are non-binding and subject to changes.
2. All declarations of acceptance and all orders require the written or telex confirmation of the Vendor to become legally binding. Such confirmation sent by data transmission and/or computer print-out are also valid without a signature.
3. The same shall apply to deviations from these Conditions of Sale and other additions, amendments or supplementary agreements.
4. All customer orders shall be deemed as binding contract offers of the customer.
5. Decisive for the content and scope of deliveries and services is the written order confirmation from the Vendor. This shall also apply for orders submitted to our sales representatives and / or sales force staff.

#### Item 3 Prices

1. The prices apply in euro plus VAT at the respectively valid rate.
2. Provided no fixed price has been expressly agreed, the prices shall be binding up to the delivery date specified. Where no such delivery date has been agreed, the Vendor shall be bound by the agreed price for the duration of four months from confirmation of the order. Thereafter, the Vendor shall be entitled, in the event of a cost increase which ensues after issue of the order confirmation (e.g. due to an increase in material, wages or other costs to be borne by the Vendor), to effect appropriate price increases, provided he is not already in default in delivery. Where the Vendor incorporates changes required by the Customer, the Customer shall be invoiced for the ensuing additional costs.
3. The forwarding charges including the costs of packaging shall be itemized separately and are to be borne by the Customer.

#### Item 4 Processing costs in the event of return of goods

When the Vendor accepts returned fault-free merchandise, which requires his express agreement, a processing fee with the respectively valid VAT is to be paid by the Customer.

#### Item 5 Times of delivery and performance, default

1. The observance of deadlines for deliveries presupposes the timely receipt of all details to be provided by the Customer, all documentation, the necessary approvals (including any necessary import licenses) and clearances, in particular plans, as well as the observance of the agreed payment conditions, including the timely payment of down payments agreed separately and other obligations by the Customer. If these preconditions are not met in time, the delivery periods shall be extended accordingly, provided a delay is not the responsibility of the Vendor.
2. Business to be settled on a fixed date requires expressed written confirmation.
3. The delivery obligation remains under the reservation of deliverability.
4. Delays in delivery and performance due to force majeure, unforeseeable disruptions, industrial disputes (in particular strikes and lockouts) or short ages of raw material or other events which are not within the responsibility of the Vendor (e.g. delivery delays of an upstream supplier) shall entitle him to extend the delivery date by the duration of the hindrance, even when this has been agreed in binding form. If the delivery is impossible or unreasonable for the Vendor due to circumstances of this kind, he may withdraw from the contract entirely or in part. Changes to the delivered merchandise on the instructions of the Customer shall lead to an appropriate extension of the delivery deadline.
5. Should the hindrance last for longer than two months, the Customer shall be entitled, after notification of an appropriate grace period, to withdraw from the part of the contract not yet met.
6. The delivery deadline shall be considered to have been met when the merchandise has been dispatched within the agreed delivery time or notification sent of the readiness for dispatch.
7. If the delivery date or the delivery deadline is not observed by the Vendor, the Customer shall be obliged to specify an appropriate grace period in writing. If the Vendor culpably fails to deliver within the specified grace period, the Customer shall be entitled to withdraw from the contract.
8. To the extent that the Vendor is responsible for the non-observance of bindingly agreed deadlines, the Customer shall be entitled to compensation for losses caused by culpable delay, restricted to maximum 5% of the net invoice value of the delivery or service affected by the delay following unsuccessful expiry of the period of grace specified by the Customer – provided he can prove that he has suffered losses as a result of the delay. The rights of the Customer pursuant to Item 11 remain unaffected.
9. At the request of the Vendor, the Customer shall be obliged to declare to the Vendor, within a reasonable period of notice, whether he intends with drawing from the contract due to the delay in delivery, and / or demanding compensation instead of performance and / or insisting on performance.
10. If the supply, the dispatch or the delivery is postponed beyond the contractual date at the request of the Customer the Vendor may invoice the Customer,

at the earliest ten working days following notification of readiness for dispatch, lump sums for warehousing charges amounting to 0.5% of the invoice amount for each month or part thereof. The aggregated maximum lump sum payments are limited to 5 % of the invoice amount. The contractual parties shall be free to provide proof of higher or lower warehouse costs.

11. If the Customer is in default, if the Customer fails to cooperate or if the Vendor's delivery is delayed to any other reasons the Customer is responsible for, the Vendor shall be entitled to claim compensation for any damages and extra costs (e.g. storage costs) resulting therefrom. The Vendor is entitled to charge a lump sum storage fee of 0,5 % of the invoice amount for each storage month commenced. The aggregated maximum lump sum payments are limited to 5 % of the invoice amount. The contract parties are free to provide proof of higher or lower warehouse costs.
12. The Vendor shall be entitled to make partial deliveries, if
  - the partial delivery can be used by the Customer within the scope of the agreed contractual purpose
  - the delivery of the ordered goods outstanding is secured and
  - any substantial additional costs will not incur to the Customer (unless the Vendor is willing to bear such costs).Part-deliveries shall be considered transactions in their own right. They shall be invoiced as such and are to be settled separately.
13. Over-delivery and under-delivery of up to 10% resulting from production processes and common in the industry are permissible, unless a deviation from the contractual quantity in individual cases is unacceptable for the Customer.

#### Item 6 Transfer of risk

1. The risk of accidental perishing and / or loss as well as the risk of delay shall transfer to the Customer as soon as the freight as been handed over to the person executing the transport or has left the Vendor's warehouse for the purpose of dispatch. This shall also apply when the forwarding is executed totally or in part by the Vendor's own staff.
2. Furthermore, these risks shall transfer to the Customer as a consequence of any Customer's default of acceptance.
3. If merchandise is taken back in individual cases for reasons for which the Vendor is not responsible and on the basis of a separate written agreement, the Customer shall bear all risks up to the receipt of the merchandise at the Vendor's premises.

#### Item 7 Warranty

1. No right to claim damages for defects shall apply in the case of only minor deviations from the agreed properties or in the case of only minor negative impact on the usability.
2. Furthermore, the right to claim damages for defects shall not apply in the case of natural wear and tear or damage which occurs following transfer of risk as a result of faulty or negligent treatment, excessive use, unsuitable operating material, faulty assembly work, unsuitable working material, unsuitable operating material, failure to observe the operating instructions, faulty maintenance or as a result of special external influences (including chemical or electrolytic influences) not provided for in the contract.
3. Similarly, if inappropriate alterations or maintenance work are/is carried out by the Customer or by third parties, no right to claim for damages resulting from defects shall exist for this or the resulting consequences.
4. The Customer must inform the Vendor of obvious defects immediately in writing, at the latest, however, within one week of receipt of the item delivered. Faults which cannot be discovered within this period even with careful examination are to be reported in writing by the Vendor as soon as they are discovered.
5. Warranty claims are excluded if the Vendor is not granted the opportunity, within ten day of notification of the fault, to view the merchandise.
6. In the event of justified notification of defects the Vendor shall have the choice of rectification (repair) or additional delivery.
7. The Customer shall give the Vendor the necessary time and opportunity for the owed remedial actions.
8. If the Vendor delivers a fault-free item for the purpose of supplementary performance, the Customer shall be obliged to return the faulty item. This shall apply accordingly for faulty components when these are replaced by fault-free ones within the rectification. The rectification does not include the removal of defective items nor the reinstallation of defective items, unless the Vendor was originally obliged to do so.
9. If the Vendor is not capable of rectification or additional delivery, or entitled in accordance with Section 439 Abs. (3) BGB to refuse rectification or additional delivery, or if the delay of the rectification or additional delivery extends beyond a reasonable deadline, for reasons for which the Vendor is responsible, or if the additional delivery or rectification is unsuccessful twice, the Customer can, as he sees fit, demand a reduction of the price or withdraw from the contract.
10. Statutory rights of recourse of the Customer against the Vendor shall exist only provided that the statutory preconditions (including those of the sale of consumer goods) have been met. Therefore, no rights of recourse shall exist, in particular, when the Customer has reached an agreement with his purchaser extending beyond the statutory right to claim damages for defects in the context of a guarantee or for reasons of goodwill.
11. To the extent that the statutory stipulations regarding the sale of consumer goods (Sections 474 ff. BGB), in particular those relating to recourse liability (Sections 478 ff. BGB) does not apply due to the non-existence of the statutory preconditions, a one-year guarantee period shall apply. Section 438, Subsection 1, No. 2 and Section 3 shall remain unaffected.



12. The above mentioned limitations of the Vendor's liability also apply to all contractual and non-contractual claims for compensation of the Customer which are based on faulty goods unless the application of the statutory period of limitation leads to a shorter limitation period in individual cases.
13. This does not apply to claims for compensation of the Customer based on injuries to life, body or health or on willful or gross negligent breaches of the Vendor's duties or the Vendor's agents duties, which become time barred pursuant to the statutory provisions.
14. The legal consequences of a contravention of the commercial obligation to inspect for faults and provide notification of same shall remain unaffected. This also applies to the Article 478 paragraph IV of the German Civil Code (BGB).
15. For the rest, Item 11 shall apply for compensation claims. Farther-reaching claims of the Customer against the Vendor and his vicarious agents relating to a material defect, or claims other than those regulated in this section and Item 11, are excluded.

**Item 8 Product details**

1. The details and illustrations contained in brochures and catalogues are approximate values customary within the industry, unless they have been specifically described as binding. The Customer shall be obliged to convince himself of the suitability of the product for the intended through his own examination.
2. Specific reference is made to our information on product liability. This information must be observed by the Customer.
3. Drawings and details of weight and dimensions in brochures and catalogues have been compiled with care; the right to make subsequent corrections in the case of obvious errors is reserved.

**Item 9 Expanded and extended reservation of proprietary rights**

1. The Vendor reserves ownership of the merchandise he delivers until payment of the purchase price has been rendered in full and until settlement of all existing and future claims of the Vendor against the Customer arising from the business relationship.
2. The delivered merchandise must be properly stored, kept and marked by the Customer as originating from the delivery of the Vendor and separated from similar merchandise of other companies.
3. The Customer shall be entitled to sell, install or process the reserved goods in a due business transaction. Due business transaction does not include the processing, installation or sale to such purchasers as have signed a prohibition of assignment agreement with the Customer. Otherwise this authorisation can only be revoked when the Customer has failed to duly meet his payment obligations or the Customer has become insolvent.
4. Even at this stage, by way of precaution, the Customer assigns receivables relating to the reserved goods arising from a selling on or other legal basis (processing, installation, unauthorised action, insurance, etc.) to the amount of the invoice sum of the delivered merchandise. If the Customer enters the receivables from a selling on or on other legal grounds into a current account already existing with his customer, the balance claim is to be assigned to the level of the invoice sum.
5. The Customer is authorised to process the merchandised delivered under reservation of proprietary rights, provided he is not in default. The processing ensues through the Customer for the Vendor. The Vendor acquires ownership of the new merchandise as a manufacturer within the meaning of Section 950 BGB, while the Customer holds the merchandise on account for the Vendor. When processed with other goods not delivered by the Vendor, the Vendor shall be entitled to co-ownership of the new merchandise at the ratio of the value of the reserved goods to the other processed goods at the time of processing. The same shall apply for the merchandise resulting from the processing as to the reserved goods.
6. The Vendor authorises the Customer to collect receivables assigned to the Vendor for his own account and in his own name. The direct debit authorisation can only be revoked when the Customer has not duly met his payment obligations or the Customer has become insolvent.
7. In the event of culpable conduct in contravention of the contract on the part of the Customer – in particular payment default – or any insolvency situation of the Customer the Vendor shall be entitled to notify the debtor of the assignment of the above receivables. In such a situation the Vendor shall also be entitled to take back the reserved goods or, where applicable, to demand the assignment of the claim to handover of the goods vis-à-vis third parties.
8. The taking back of the reserved goods shall not be considered a withdrawal from the contract. Article 449, paragraph 2 BGB is excluded.
9. When demanded to so do by the Customer, the Vendor must release part of the securities providing their value exceeds the receivables over a longer period by over 20 %.

**Item 10 Payment**

1. The Vendor's invoices are payable within 14 days of their issue (according to invoice date) and delivery and acceptance with 2 % cash discount or within 30 days of the invoice date and delivery and acceptance without deduction. If the Customer fails to make settlement within 30 days of the invoice date, he shall be in default, even without a reminder. If the time of receipt of the invoice or payment plan, or the receipt itself, is unclear, the Customer who is not a consumer shall be in default at least 30 days after the due date and receipt of the return service. Nevertheless, the Vendor is entitled to carry out a delivery against payment in advance even in ongoing business relationships. The Vendor shall declare a corresponding retention at the with the order confirmation.
2. Payment shall only be considered to have been rendered when the sum is at the disposal of the Vendor. In the case of bank drafts or cheques, the

payment shall only be considered to have been rendered when the cheque or bank draft has been cleared.

3. If the Customer who is a consumer should be in default, the Vendor can demand interest at the rate of 5% p. a. above the respective basic interest rate in accordance with Section 247 BGB. If the Customer is not a consumer, the rate of default interest shall be 8 % p. a. above the respective basic interest rate in accordance with Section 247 BGB. The Customer cannot contend that the Vendor has incurred only a lower interest loss, or none at all. However, the Vendor shall remain free to calculate the interest loss on the basis of proven incurred costs. The Vendor reserves the right to claim further default damages.
4. The Vendor shall not be obliged to discount bank drafts. If, in individual cases, bank drafts are discounted on the basis of special agreements, the bank discounting and handling charges shall be borne by the issuer of the draft in the case of the receivables becoming due and are payable in cash with immediate effect.
5. Regardless of the payment arrangements concluded separately in individual cases, the receivables owing to the Vendor shall become due immediately when circumstances arise in the person of the Customer which make adherence to agreed payment arrangements no longer reasonable. This is the case when there are well-founded indications of a major deterioration of the financial standing of the Customer, in particular with the discontinuation of payments, cheque or draft protests or payment default, when it becomes evident as a result that the Vendor's entitlement to return service is endangered through inability to pay on the part of the Customer. In this case, the Vendor shall also be entitled to set the Customer a deadline in which the Customer, at the discretion of the Vendor, must effect payment of the return service or arrange additional securities. Following effectless expiry of the deadline set by the Vendor, same shall be entitled to withdraw from the contract.
6. Within the framework of warranty for defects, the Customer may only withhold payment following submission justified of notice of defects to an extent which is in a reasonable ratio to the material fault which has arisen. For the rest, a right of retention of the Customer is excluded.
7. The Customer shall only be entitled to set-off or retain if and insofar as the counterclaim is undisputed, recognised by declaratory judgement or ready for judgement.
8. The Vendor shall be entitled to assign the claims arising from the business relationship with the Customer.

**Item 11 Compensation / Limitation of liability**

1. Compensation claims of the Customer, for whatever legal reason, in particular for infringement of contractual obligations and from unauthorised actions are excluded unless mandatory liability applies in accordance with the product liability law, in the case of liability for deliberate or grossly negligent conduct, for injury to life, limb or health, for the infringement of major contractual obligation or where the Vendor has issued a guarantee of particular properties or has concealed the defect maliciously.
2. The liability limitations resulting from clause 11.1 above also apply in cases of non-compliance by persons whose fault the Vendor is responsible for pursuant to statutory provisions.
3. The compensation claim for the infringement of major contractual obligations (i.e. an obligation which needs to be fulfilled for a proper execution of the contract and on whose fulfillment the contractual partner may regularly rely on and de facto typically does so) shall, however, be limited to the foreseeable losses typical for contracts of this kind, provided a limitation is not excluded for other reasons due to deliberate or grossly negligent conduct or injury to life, limb or health.
4. If the Vendor provides technical information or acts as an advisor and these information and advises are not part of the contractual obligations of the Vendor and are given voluntarily, then this information and advises are given free of charge and under exclusion of any liability.
5. In the event that justifiable claims are asserted against the Customer under the statutory stipulations for supplementary performance by his customer or his customer's customer, he must give the Vendor the possibility, within a reasonable period of time, to undertake the supplementary performance himself, before otherwise supplying "substitute". The Customer shall impose this obligation accordingly on his purchasers. Should the Customer infringe on these obligations, the Vendor shall reserve the right to reduce the reimbursement of expenses to the sum which he would have incurred with a supplementary performance of his own. Section 444 BGB shall remain unaffected.
6. Reimbursement for expenses within the framework of the supplementary performance of the Customer vis-à-vis his customer are furthermore excluded when the Customer has not availed of his right to refuse this type of supplementary performance, or both types of supplementary performance, due to disproportionality of costs, in contravention of his duty to avert, minimise or mitigate losses and/or has not limited the reimbursement of expenses to a reasonable sum.
7. Claims of the Customer to expenses necessary for the purpose of supplementary performance, in particular transport costs, wage costs, labour costs and material costs are excluded to the extent that the expenses increase due to the delivery item being subsequently transferred to a place other than the contractually agreed place of destination unless the transfer conforms with the use for which it was intended. This shall apply accordingly for the recourse liability.
8. For compensation claims and claims to compensation for expenses in the context of the claims for liability for defects in the merchandise, the binding period of limitation applying to these claims shall apply (see Item 7).

**Item 12 Data protection**

1. The provisions according to the current data protection law apply.
2. The data protection declaration required by the data protection law is deposited on the Vendor's website, which is expressly referred to here.  
<https://www.eco-schulte.com/datenschutzerklaerung/>

**Item 13 Place of performance, applicable law, court of jurisdiction, partial nullity**

1. The Vendor retains all his proprietary and copyright exploitation rights, without restriction, to all drawings, illustrations, plans, calculations, execution instructions, product descriptions, models or samples, substances, containers or packaging materials, cost estimates and all relevant other documents (hereinafter referred to as "Documents"). The Documents may only be made accessible to third parties with the prior approval of the Vendor and, when the order is not placed with the Vendor, returned to the Vendor on demand without undue delay.
2. The Customer is obliged to keep all Documents secret which are made available to the Customer or become known to the Customer in any other way in connection with the execution of the contract. Without the Vendor's prior written consent the Customer is prohibited to grant third parties access to the Documents or make these Documents available to third parties in any other way. This duty of secrecy shall only be terminated if and insofar as the knowledge contained in the Documents has become generally known or the Vendor has waived this obligation of secrecy in writing.
3. Place of performance for the mutual primary and secondary obligations arising from the contracts, as well as all rights and duties arising from the contract, shall be Menden.
4. For these Conditions of Sale and the entire legal relationship between the Vendor and the Customer, the laws of the Federal Republic of Germany shall apply, under exclusion of the UN Convention on the International Sale of Goods.
5. Court of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is Menden, when the Customer is a merchant, legal entity under public law or special fund under public law.
6. Should any provision in these Conditions of Sale or a provision within the framework of other agreements be or become invalid, the validity of all other provisions or agreements shall not be affected.

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