

General Terms and Conditions of Delivery of AUMA Riester GmbH & Co. KG

I. Scope of application, conclusion of contract, content of contract

- These General Terms and Conditions of Delivery (hereinafter referred to as Terms and Conditions) of AUMA Riester GmbH & Co. KG apply only to entrepreneurs within the meaning of Section 14 of the German Civil Code (BGB), legal entities under public law and special funds under public law.
- All deliveries of goods and services (hereinafter referred to as Deliveries) to one of the customers named in Section I No. 1 (hereinafter referred to as the Purchaser), including future deliveries and services, shall be based exclusively on these Terms and Conditions, unless otherwise agreed in writing. The Purchaser's terms and conditions shall not become part of the contract, even if we do not expressly object to them.
- We shall be bound by our offers in terms of technical content for a period of 3 months, unless a different binding period is specified in the offer. Otherwise, our offers are non-binding. In the absence of a special agreement, a contract shall be concluded upon our written order confirmation or upon delivery. **Oral ancillary agreements or commitments made by our employees** that go beyond the content of the written contract or change these Terms and Conditions to our disadvantage shall only be effective **upon our written confirmation**.
- We reserve all property rights and copyrights to samples, cost estimates, drawings and similar information of a physical and non-physical nature created by us, including in electronic form. They must be treated as strictly confidential and must not be made accessible to third parties without our prior written consent, unless, in exceptional cases, disclosure is required by law or court order. The Purchaser must return them to us at any time upon our request or destroy them in a verifiable manner.
- Our product descriptions do not constitute guarantees. Our illustrations, drawings, colour, weight and dimension specifications are only approximate values, unless they are a) expressly designated as binding or b) objectively essential. Unless otherwise agreed, customary or minor, technically unavoidable deviations in quality, colour, dimensions or weight do not constitute defects.

II. Price and payment

- Unless otherwise agreed, our prices apply CPT agreed destination Incoterms® 2020. We charge packaging, transport costs and the applicable value added tax separately.
- If, after conclusion of the contract, there have been significant changes in wage, salary, material or raw material costs and we are not responsible for these changes, we shall be entitled to adjust the agreed prices accordingly with effect from the beginning of the following month. If a price increase exceeds 5 %, the Purchaser shall have the right to withdraw from the contract in writing within 2 weeks of notification of the price increase.
- Unless otherwise agreed, payments shall be made to our account without any deductions within 30 days of receipt of the invoice. Payments shall only be deemed to have been made to the extent that we can freely dispose of them at our bank. Bank charges shall be borne by the Purchaser. They are due immediately.
- In the event of late payment, interest shall be charged at a rate of 9 percentage points above the base rate, but at least 10 %.
- The Purchaser shall only be entitled to withhold payments or offset them against counterclaims insofar as its counterclaims are undisputed or have been established by a final court judgement. The Purchaser's right of retention shall furthermore be limited to counterclaims arising from the same contract.

III. Delivery, delivery time, reservation of self-delivery, delayed delivery

- Delivery shall take place CPT agreed destination Incoterms® 2020.
- Stated delivery times are approximate and therefore non-binding.
- Unless otherwise agreed, an agreed delivery period shall commence upon receipt of the order confirmation, but not before all commercial and technical details regarding execution of the order have been clarified and all obligations incumbent on the Purchaser have been fulfilled, such as providing the necessary official certificates or approvals, as well as making an agreed down payment or providing payment security. If a specific delivery date has been agreed, the delivery date shall be postponed accordingly. The foregoing shall not apply to the extent we are responsible for the delay.
- Compliance with the delivery period is subject to correct and timely delivery (in particular of raw materials) to us by our own suppliers. Insofar as we are not responsible for incorrect, delayed or non-delivery, we shall not be in default and shall be entitled to withdraw from the contract if delivery is not made within a reasonable period or not at all. We shall inform the Purchaser immediately of any delays.
- The delivery period shall be deemed to have been met if the delivery item has been handed over to the carrier at our factory by the end of the delivery period. Where acceptance is required – other than in cases of justified refusal of acceptance – the agreed acceptance date shall determine compliance, alternatively the notification of readiness for acceptance.
- Requests for changes by the Purchaser shall extend the delivery period by the time required to check their feasibility and to implement the new specifications into production. If the request for change suspends ongoing production, we may give priority to other orders and finish them. We are not obliged to keep production capacities free during the delay.
- If the dispatch or acceptance of the delivery item is delayed beyond the agreed delivery period for reasons for which the Purchaser is responsible, we shall be entitled to charge storage costs of at least 0.5 % of the invoice amount of the stored delivery per month.
- If we delay in delivery and the Purchaser incurs loss as a result, our liability for simple negligence shall be limited for each full week of delay to 0.5 %, but not exceeding a total of 5 % of the invoice amount for that part of the delivery affected by the delay. This shall be without prejudice to the right to claim for damages in lieu of performance pursuant to Section VII.

IV. Transfer of risk, acceptance, force majeure

- The risk shall pass to the Purchaser upon handover to the carrier at our factory (= place of delivery), even if partial deliveries are made or if, in exceptional cases, we have assumed other services, e.g. shipping costs or delivery.
- If acceptance is required, it must be carried out without delay on the agreed acceptance date or, alternatively, on notification of readiness for acceptance. The Purchaser may not refuse acceptance due to minor defects.
- Partial deliveries are permissible insofar as they are reasonable for the Purchaser.
- In the event of Force Majeure, we shall be released from our contractual obligations and from any liability for damages or any other contractual remedy for breach of contract for as long as the Force Majeure or its effects prevent the fulfilment of the contract. This shall also apply if the Force Majeure occurs at our supplier's premises or during an existing delay.
„Force Majeure“ means the occurrence of an event or circumstance that prevents us from fulfilling one or more of our contractual obligations under the contract if and to the extent that: (a) this obstacle is beyond our reasonable control and (b) this obstacle was not reasonably foreseeable by us at the time of conclusion of the contract and (c) the effects of the obstacle could not reasonably have been avoided or overcome by us. The following events shall be presumed to constitute Force Majeure: war, riots, acts of terrorism, currency and trade restrictions, embargoes, sanctions, lawful or unlawful official acts (e.g. refusal of import or export licences), compliance with laws or government orders, epidemics, extreme natural events, explosions, fires; destruction of equipment, prolonged failure of means of transport, telecommunications, information systems or energy, general industrial unrest such as boycotts, strikes and lockouts, general shortages of materials, raw materials or energy.
- If the Force majeure is not only of a temporary nature, both contracting parties are entitled to terminate that part of the contract affected by the Force Majeure without notice.

V. Retention of title

- We retain title to the delivered goods until all payments arising from the business relationship with the Purchaser have been received. If there is a current account relationship, the retention of title extends to the recognised balance.
- The Purchaser is obliged to treat the goods subject to retention of title with care and to maintain them; in particular, it is obliged to insure them at its own expense against loss and damage at their replacement value. The insurance policy and proof of premium payment must be presented on request. The Purchaser hereby assigns to us any claims arising from the insurance relationship, subject to the condition subsequent of the transfer of ownership; we accept the assignment.
- The processing and treatment of the goods subject to retention of title by the Purchaser shall always be carried out on our behalf without giving rise to any obligation on our part. In the event of processing, mixing, blending or combining with other goods not belonging to us, we shall acquire co-ownership of the new item in proportion to the invoice value of the goods subject to retention of title to that of the other processed goods. If the Purchaser acquires sole ownership of the new item, it is agreed that the Purchaser shall grant us co-ownership of the new item in proportion to the value of the processed, combined, mixed or blended goods subject to retention of title and shall store it for us.
- The Purchaser is entitled to resell and use the goods subject to retention of title or the new item in the ordinary course of business; however, it hereby assigns to us all claims arising from the resale or further use as follows: (a) If the reserved goods are sold unprocessed, the Purchaser shall assign to us in full the claims arising from the resale of the reserved goods. (b) If the goods subject to retention of title are sold by the Purchaser – after processing/combination – together with goods not belonging to us, the Purchaser shall assign to us the claims arising from the resale in the amount of the value of the goods subject to retention of title with all ancillary rights and priority over the rest. We accept the assignment in each case.
- We authorise the Purchaser to collect the assigned claims as long as it meets its payment obligations from the proceeds received.
- If the Purchaser no longer meets its payment obligations to us, we may revoke the authorisation to resell and reuse and demand that the Purchaser informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs its debtors of the assignment. We are also authorised to notify the debtors of the assignment ourselves.
- The Purchaser must inform us immediately of any seizure by third parties to the goods subject to retention of title. Costs incurred in defending against such seizure shall be borne by the Purchaser, unless they can be recovered from the third party.
- If the value of the securities granted exceeds our claims by more than 10 %, we shall, at our discretion, release the securities to this extent at the Purchaser's request.
- The taking back of reserved goods does not constitute a withdrawal from the contract.

VI. Claims for defects

Material defects

- Insofar as subjective requirements, in particular a specific quality of the delivered good, have been agreed with the Purchaser for the Deliveries, these subjective requirements shall take precedence over any objective requirements.
- The Purchaser may only assert any rights due to material defects if it has duly fulfilled its obligations to inspect and give notice of defects in accordance with § 377 HGB (German Commercial Code) with regard to the delivered goods.
- In the event of justified complaints, we shall, at our discretion, deliver a replacement or repair the goods. If the subsequent performance fails, the Purchaser may demand a reduction in price or – in the case of significant defects – withdraw from the contract and demand compensation in lieu of performance in accordance with Section VII.

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4. Costs of subsequent performance incurred as a result of the purchased item being taken to a location other than the Purchaser's commercial premises after delivery shall not be borne by us.
5. Replaced parts shall become our property.
6. Claims for material defects shall not exist in the case of natural wear and tear or in the case of defects and damage arising after the transfer of risk as a result of faulty assembly or commissioning, improper handling or use, improper maintenance or repair by the Purchaser or third parties, unsuitable operating materials, defective construction work, unsuitable building ground or chemical, electrochemical or electrical influences. If the Purchaser or third parties make changes to the delivery item without our prior written consent, no claims for defects shall exist for these changes and the resulting consequences.

Defects in title

7. If the use of the delivery item leads to the infringement of industrial property rights or copyrights in Germany, we shall, at our expense and at our discretion, either procure the right for the Purchaser to continue using the delivery item or modify or replace the delivery item in a manner reasonable for the Purchaser so that the infringement of property rights no longer exists. If this is not possible under economically reasonable conditions or within a reasonable period of time, the Purchaser shall be entitled to reduce the purchase price or withdraw from the contract in accordance with the statutory provisions and may demand compensation in lieu of performance in accordance with Section VII.
8. The infringement of third-party industrial property rights shall only constitute a defect if these property rights exist in the Federal Republic of Germany.
9. Furthermore, there shall be no defect in title if this is based on an instruction from the Purchaser or if the infringement was caused by the Purchaser arbitrarily modifying the delivery item, using it in a manner not in accordance with the contract, or if the Purchaser is responsible for the infringement.
10. The obligations specified in Section VI No. 7 shall only apply if the Purchaser informs us immediately in writing of any asserted infringements of property rights or copyrights, does not acknowledge them, supports us to a reasonable extent in defending against the asserted claims, enables us to carry out the modification measures in Section VI No. 7, and if we reserve all defensive measures, including out-of-court settlements.

VII. General liability

1. In cases of intent or gross negligence, fraudulent concealment of defects, injury to life, limb or health, or under the Product Liability Act our liability shall be governed by the provisions of statutory law. In the event of an assumed guarantee, we shall be liable in accordance with any guarantee provisions.
2. In cases of simple negligence, we shall only be liable for breach of a material contractual obligation, the fulfilment of which is essential for the proper execution of the contract and on the observance of which the Purchaser regularly relies and may rely; this liability is limited to compensation for foreseeable and typical damage, unless otherwise stipulated in Art. III No. 8 for damage caused by delay. In all other cases, our liability is excluded.
3. The limitation period for claims by the Purchaser for defects is 24 months from the transfer of risk, unless we have fraudulently concealed the defect or have assumed a guarantee beyond this. Claims for other breaches of obligation and claims for damages under the Product Liability Act shall become time-barred within the statutory limitation period as of commencement of the statutory limitation period. In the event of liability due to the assumption of a guarantee, we shall be liable in accordance with the guarantee provisions.

VIII. Packaging

1. We take back our transport packaging as well as our sales and outer packaging, for which there is no obligation to participate in a system in accordance with the German Packaging Act (VerpackG), exclusively at our place of business and only during normal business hours in order to recycle or dispose of them properly in accordance with the principles of circular economy. The Purchaser shall bear the costs of the return shipment. Euro pallets can also be taken back on one of the next deliveries, including by way of exchange for other, equivalent pallets.
2. The packaging must be completely empty of any residue, free of contamination that is not attributable to the packaged product and which does not significantly impede recycling, and sorted by type before being returned; otherwise, we are entitled to demand the additional costs incurred for recycling or disposal.

IX. Electrical equipment

1. We are registered as a manufacturer with the brand AUMA with the Waste Electrical Equipment Register (EAR Institute) in accordance with the German Electrical and Electronic Equipment Act (ElektroG).
2. We take back AUMA equipment that is no longer in use at our central collection point during normal business hours in accordance with Section 19 ElektroG. The Purchaser bears the costs of return shipping and disposal. Further information on the return and disposal of old devices can be found at ear.auma.com.

X. Software use

1. Insofar as software is included in the scope of delivery, the Purchaser is granted a non-exclusive right to use the delivered software, including its documentation. It is provided for use on the delivery item for which it is intended. Use of the software on more than one system is prohibited.
2. The Purchaser may only copy, revise, translate or convert the object code into source code to the extent permitted by law (Sections 69 a et seq. Copyright Act (UrhG)). The Purchaser undertakes not to remove or alter manufacturer's information, in particular copyright notices, without our prior express consent.
3. All other rights to the software and documentation, including copies, remain with us or the software supplier. The granting of sub-licences is not permitted.

XI. Applicable law, jurisdiction

1. German substantive law applies to all legal relationships between us and the Purchaser. The UN Convention on Contracts for the International Sale of Goods of 11 April 1980 is excluded.
2. **The place of jurisdiction is our headquarters in Müllheim. However, we are also entitled to bring legal action in the court with jurisdiction over the Purchaser's headquarters.**