

Dämmstoff & Technik

 **bailer**

1 TERMS AND CONDITIONS

I. Scope, Offer, Acceptance

1. By placing an order, the customer accepts our general terms and conditions. The customer's purchasing conditions do not obligate us, even if we do not expressly object to them. Our general terms and conditions apply for the entire duration of the business relationship, in particular also for follow-up orders.
2. Our general terms and conditions apply for the entire duration of the business relationship, including for follow-up orders. This also applies if they are not explicitly referred to in future orders or if the customer places orders under different conditions without our express objection.
3. Our offers are non-binding and without obligation. Acceptance of an order occurs through written order confirmation or through invoicing upon delivery.
4. Drawings, illustrations, dimensions, weights, or other performance data do not constitute a guarantee of characteristics and are only binding if expressly agreed upon in writing.

II. Delivery, performance, delivery dates

1. Products that deviate from the order due to technical changes or adjustments are in accordance with the contract if they are otherwise functional.
2. We reserve the right to make partial deliveries and issue partial invoices.
3. We strive to meet agreed delivery deadlines whenever possible; however, delay does not occur until we have failed to ship goods within a written grace period of 2 weeks set by the customer.
4. The delivery period is reasonably extended in the case of force majeure as well as in the event of unforeseen obstacles beyond our control, e.g., operational disruptions, delays in supply by our suppliers, or strikes. The deadline extension is a maximum of 1 month; after that, both we and the customer are entitled to withdraw from the contract.
5. Delivery delays entitle the customer to withdraw from the contract, excluding any further claims.
6. If the customer is in default with the fulfillment of his obligations from the business relationship, we are only obliged to deliver against cash payment or other security for the purchase price regarding other payment obligations.
7. To the extent that we are responsible for a service disruption (due to intent or gross negligence), the customer's claim for damages is limited to 10% of the corresponding value of the goods.
8. In principle, providing a delivery date is non-binding. Fixed dates are only valid if they have been expressly confirmed by us in writing. Delivery takes place during the agreed day, with the following time windows: Definition of delivery dates: early until around 9:00 a.m., morning until around 12:00 p.m. No fixed date commitments or "just in time" deliveries are possible.

Due to the generally known transport and traffic problems, we ask for your understanding that we do not accept any waiting times, waiting time invoices, or loss of production invoices. With our order confirmation, we will initially provide you with the "estimated delivery date" at the time of your order. We will inform you of the final delivery day with our delivery notification.

III. Shipping

1. Shipping is carried out at the customer's expense and risk. Transport damages or losses must be confirmed by the transporting company. We reserve the right to ship not from the place of performance, but

also from another location.

2. We are entitled but not obliged to insure the goods to be shipped against all types of transport risks at the customer's expense. The transfer of risk remains unaffected.
3. The customer is obliged to check the goods immediately upon receipt for completeness and defects and to report any complaints to us in writing within 8 days of receiving the delivery.

IV. Prices, payment terms

1. Unless otherwise agreed, the prices are understood to be ex works plus statutory VAT and excluding packaging.
2. Our invoices are due immediately; payments must be made without deduction within 7 days of the invoice date and are deferred until then.
3. All costs incurred by us from bills of exchange and checks accepted by us merely for the purpose of fulfillment, in particular discount charges and interest, are borne by the customer.
4. From the due date, interest can be charged at a rate of 5 percentage points above the base interest rate according to § 247 BGB when consumers are involved, and 8 percentage points above the base interest rate according to § 247 BGB when non-consumers are involved. The assertion of further damages due to default remains reserved.
5. In the event of late payment or inability to pay, all claims become due immediately.
6. If the customer refuses to accept delivery, they are in default of acceptance and are obliged to perform in advance.
7. Set-off against counterclaims of the customer is excluded, unless the counterclaim is undisputed or has been legally established.

V. Retention of Title

1. The delivered goods or samples remain our property until all outstanding claims from the business relationship have been fully paid. However, the customer is entitled to sell the goods in the ordinary course of business.
2. The customer is not entitled to pledge our goods or transfer them as security. They are obliged to assert our property rights against third parties and to inform us immediately in writing if claims are made on the goods by third parties or if enforcement proceedings are initiated.
3. If the customer falls behind on the payment of any debt arising from the business relationship, we may demand the return of our goods without thereby withdrawing from the contract. The customer shall grant us access to their premises or construction sites at any time for this purpose.
4. Claims arising from resale are automatically deemed assigned to us up to the amount of our outstanding claims. Incoming proceeds must be remitted to us without delay. The customer must inform us of the third-party debtor and the amount of the claim upon request. We are entitled to assert the assigned claims in our own name.

VI. Warranty

The statutory provisions apply with the following stipulation:

1. The contractor (non-consumer) as a customer is obliged to notify us of defects in writing immediately, but no later than 8 days after receipt of the delivery item. Defects that cannot be discovered even with careful inspection within this period must be reported to us immediately after discovery.

2. The warranty period for entrepreneurs for movable items intended for a building according to their usual use is, contrary to the statutory provisions, 1 year; for consumers, the statutory regulations remain applicable.
3. We guarantee that the purchased item is free from defects in material and workmanship in accordance with the current state of the art. Natural wear and damage resulting from improper handling are excluded from the warranty.
4. We are liable for defects in the delivery as follows:
 - a.) All parts of a delivery that show defects which can be proven to have arisen due to circumstances existing before the transfer of risk, in particular due to faulty design, poor materials, or defective workmanship, and which have become unusable or significantly impaired in their usability, are to be repaired or replaced at our reasonable discretion free of charge. However, we must be given the opportunity to inspect or have the reported defects inspected on site. In order to carry out any repairs or replacement deliveries that may be necessary, the customer must provide us, after prior notification, with the required time and opportunity; otherwise, we are released from liability for defects.
 - b.) We will only cover the costs arising from repair or replacement delivery, provided the complaint proves to be justified, limited to the costs of the replacement delivery including shipping, as well as the costs we incur for installation and removal. We may refuse to remedy defects if the customer is not willing to fulfill their contractual obligations concurrently with the defect remedy.
 - c.) Liability for consequences arising from improper changes or repair work carried out by the customer himself without our prior approval is also excluded.
 - d.) For goods standardized according to DIN, the DIN tolerances apply. Other tolerances are only valid if they are recorded in writing on our order confirmation.

VII. Limitation of Liability

If we are required to compensate for damages under the legal provisions in accordance with these general terms and conditions, our liability is subject to the following limitations:

1. Liability for injury to life, body, and health:

Liability for injury to life, body, and health exists only in the case of a breach of essential contractual obligations and is limited to the damage foreseeable and typical at the time the contract is concluded.

2. Liability for other damages:

We are not liable for damages caused by a defect in the purchased item that are only slightly negligent.

VIII. Data protection

We store and process the personal data contained in the course of the terms and conditions with our customer in compliance with the legal provisions according to the GDPR (General Data Protection Regulation).

IX. Partial Invalidity, Written Form

1. Should any provision of this contract be invalid, this shall not affect the validity of the remaining agreements. The parties agree to promptly agree on a new valid provision that comes as close as possible to the economic purpose of the invalid provision.
2. The customer and the seller waive any objection based on any oral side agreements.

X. General Provisions, Jurisdiction

1. The customer is not entitled to assign their claims arising from the contract concluded with us.
2. A right of set-off or retention exists only with regard to recognized or legally established claims.
3. Only German law applies; provisions of the UN Sales Convention and international private law do not apply.
4. The place of performance is Großbettlingen.
5. Großbettlingen is agreed as the exclusive place of jurisdiction for all disputes arising from this contract in the event that the customer is a merchant or a legal entity under public law. The same applies if the customer does not have a general place of jurisdiction in Germany, or if the customer to be sued in legal proceedings moves their residence or habitual abode outside the scope of the German Code of Civil Procedure after concluding the contract, or if their residence or habitual abode is unknown at the time the lawsuit is filed. This also applies to checks or other documents, even if they are made payable at other locations, and to claims that were previously asserted through the dunning procedure.

Our general terms and conditions are also available on the website www.bailer-daemmstoffe.de.