



Lösing GmbH
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www.loesing-herford.de

Terms of business

1. General provisions

- 1.1. These Delivery and Payment Terms of Lösing GmbH (hereinafter referred to as "Lösing") shall exclusively apply to the entire business relationship, including future transactions. Conflicting terms and conditions provided by the Supplier, in particular terms and conditions of purchase, shall not be recognised unless the acceptance of said conditions has been expressly agreed in writing by Lösing.
- 1.2. Our Delivery and Payment Terms shall apply even if we supply a purchaser's order without reservation in full knowledge of said purchaser having terms that contradict or differ from our own.
- 1.3. In general, our quotes are subject to change. Orders only become binding for Lösing once we have confirmed them in writing.
- 1.4. Verbal statements deviating from the Delivery and Payment Terms and our written agreements, regardless of their nature, particularly including commitments by representatives, are invalid without express written confirmation.

2. Pricing and payments

- 2.1. Unless otherwise agreed, prices are listed ex works in EUROS, including loading at the plant, but not including packaging, provided nothing to the contrary is stipulated in the quote. All prices represent net prices plus the value added tax applicable at the time the invoice is issued.
- 2.2. Unless expressly confirmed as "fixed prices", prices are subject to change and entitle Lösing to make a proportional price adjustment if wage or material price increases occur within four (4) months as of conclusion of the contract. Verification of such price increases shall be provided to the purchaser upon request.
- 2.3. Payments are due and payable in cash without any deduction and free of transaction charges to Lösing's designated account(s).
- 2.4. If payment dates set by us or contractually agreed upon are exceeded without the preconditions for default being met, Lösing is entitled to charge interest at the current bank rate at such time as the payment deadline is exceeded. Without further verification, Lösing may demand at least five per cent (5%) p.a. interest from the due date.
- 2.5. The purchaser shall be deemed to be in default if it exceeds an agreed payment deadline or, if no such deadline has been agreed, if it does not pay within a period of thirty (30) days as of the due date and receipt of an invoice, or does not pay despite the due date and a reminder.
- 2.6. If the preconditions for default are met, Lösing may demand interest on arrears at a rate of eight (8) percentage points above the base rate of the ECB, unless it can prove greater damages were caused by said default.
- 2.7. The purchaser is not permitted to offset unless the counterclaim is not disputed or has been legally established. The purchaser is only entitled to exercise a right of retention if and insofar as its counterclaim is undisputed or has been legally established and is based on the same contractual relationship as Lösing's claim.
- 2.8. In the event of default of payment by the purchaser, payment difficulties, unsuccessful enforcement measures or a request to open insolvency proceedings, all of Lösing's claims against the purchaser, including deferred claims, shall become payable immediately, and any discounts or other rebates granted shall lapse.

3. Delivery time

- 3.1. The delivery times listed are only approximate. Lösing is only obligated to act once the purchaser has fulfilled its contractual obligations.
 - 3.2. In the event that it is impossible for Lösing to perform or where Lösing is unable to perform and where this is not attributable to Lösing, Lösing shall be released from its obligation to deliver; otherwise, the statutory provisions shall apply in this case.
 - 3.3. The purchaser shall undertake to accept partial performance except where use of said partial performance is not expedient for the purchaser and the purchaser therefor has no legitimate interest in it.
 - 3.4. If Lösing defaults on the performance owed, in whole or in part, for reasons attributable to Lösing, its liability for compensation for damage caused by default is limited to the typically foreseeable damages.
 - 3.5. If the purchaser is in default of acceptance or is in breach of any other duty to cooperate, it shall be charged for the additional expenses incurred, beginning in the month following notification of readiness for dispatch pursuant to Section 373 I of the German Commercial Code (*Handelsgesetzbuch* [HGB]), but at least 0.5% of the invoice price for each month or part thereof where items are being stored by Lösing. However, the purchaser is entitled to prove that no additional expenses were incurred at all or that such expenses were considerably lower.
 - 3.6. Upon expiry of a period of fourteen days to be set by Lösing and notified to the purchaser, Lösing is entitled to store the delivery item with a forwarding agent at the purchaser's expense and risk.
- 4. Provision of materials by the purchaser**
- 4.1. Material to be provided by the purchaser shall be delivered free of charge to Lösing for further processing and need only be checked by Lösing for obvious quantity deviations and noticeable transport damage. The transport person shall be notified of any quantity deviations and transport damage identified in writing.
 - 4.2. The material to be provided by the purchaser must not have any faults – e.g. unlabelled imperfections, material overlaps, web breaks, holes or the like – which could lead to machinery downtime or damage to machinery. If machinery downtime or damage to machinery occurs as a result of faults that cannot be identified in advance by Lösing, the purchaser shall undertake to reimburse Lösing for the resulting costs. In the case of machinery downtime, such reimbursement shall be paid in accordance with the net machine hourly rates, as amended from time to time; in the case of repairs, in accordance with the necessary net repair costs. However, the purchaser is responsible for ensuring that itself or its suppliers are not at fault.
 - 4.3. Raw materials, semi-finished and finished products provided by the supplier shall be stored with all the same care and diligence applied to its own affairs until such time as the order is completed. The purchaser itself shall provide appropriate insurance.
 - 4.4. Raw materials, semi-finished and finished products provided by the supplier shall only be stored beyond the delivery date by prior agreement. In this case, Lösing shall only be liable for intent and gross negligence. Otherwise, such items shall be taken back by the purchaser at its expense immediately upon execution of the order and notification of readiness for delivery.
- 5. Product quality, dimensional tolerances, offcuts and ambient dust, quantity deviations**
- 5.1. Illustrations, photographs, printed matter, etc. enclosed with quotes or deliveries, as well as details of dimensions, weights, benefits, etc. represent only approximate values. In particular, they shall not be regarded as guaranteed characteristics or



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- quality guarantees. We reserve the right to make changes in the interest of technical progress. Lösing is not obligated to verify dimensions, weights, etc. stated by the purchaser.
- 5.2. Dimensional tolerances are strongly dependent on the material to be processed and cannot be completely avoided. Unless otherwise agreed, the following dimensional tolerances shall be deemed customary permissible variations from the ideal:
- a) Roll goods for flexible and rigid products for material thicknesses
 - up to 0.7 mm: dimensional tolerance +/-1% of the target width, but at least 0.5 mm;
 - 0.7 mm or more: dimensional tolerance +/-1% of the target width, but at least 2 mm;
 - b) Sheets (shapes) without additional angle cut for rigid products
 - For material thickness up to 0.5 mm: dimensional tolerance +/-1% of the target shape length, but at least +/-1 mm;
 - For material thickness of 0.7 mm or more: dimensional tolerance +/-0.5%, but at least 5 mm;
 - c) With flexible products, it is not possible to guarantee dimensional accuracy since cutting accuracy depends too much on the flexibility, shrinkage values and restoring force of the product to be used.
- 5.3. Material offcuts: Material offcuts of up to ten per cent (10%) are technically unavoidable for products to be processed by us and are therefore considered typical. Material offcuts further depend on the purchaser's cutting layout, as well as on material defects in the original product to be provided by the purchaser; both are therefore not taken into account.
- 5.4. Ambient dust: Lösing's business premises, in particular its production facilities, do not have a clean room or enclosed machinery. Furthermore, the ambient air is not filtered. The product coming into contact with small quantities of normal ambient dust is therefore unavoidable. This may remain on the product.
- 5.5. The documents brought to the attention of the ordering Party shall remain the property of Lösing and may not be duplicated or disclosed to third parties in any form without the prior written consent of Lösing.
- 6. Transfer of risk and handover**
- 6.1. In the case of delivery, risk shall be transferred to the purchaser when the delivery parts are made available at Lösing's factory premises and notification of readiness for delivery is given, even if partial deliveries are made, provided this is reasonable for the purchaser.
- 6.2. The purchaser shall undertake to inspect the goods for damage immediately upon delivery by the forwarding agent or carrier. Where any damage is found, the purchaser shall promptly notify the transport person and provide verification of said damage. In the event of a breach of this obligation, the purchaser shall compensate Lösing for any damages arising therefrom.
- 7. Retention of title**
- 7.1. Where raw materials, semi-finished and finished products provided by the purchaser are processed, Lösing shall acquire ownership of the delivery item in accordance with Section 950 of the German Civil Code (*Bürgerliches Gesetzbuch* [BGB]).
- 7.2. Deliveries are made subject to retention of title pursuant to Section 449 BGB with the following extensions:
- a) Until such time as payment of all debts held by the purchaser arising from the business relationship, including

- b) any future debts, has been made, the delivery item processed by Lösing shall remain the property of Lösing.
- The purchaser's acquisition of ownership of the retained goods is prohibited in the event that the retained goods are further processed and/or developed to form a new moveable item. Any further processing and/or development by the purchaser shall be carried out on behalf of Lösing, without Lösing incurring any liabilities. Ownership of the processed or developed delivery item shall remain with Lösing, and serves as security for Lösing's claims in the amount of the value of the retained goods.
- c) If the purchaser combines the items with other movable items not owned by Lösing, Lösing is entitled to co-ownership of the new item commensurate to the value of the retained goods in proportion to the other processed items at the time of processing. The purchaser shall undertake to inform the owner(s) of the other items of Lösing's retention of title. In all other respects, the same shall apply to the new item resulting from processing as applies to the retained goods as stipulated in these provisions. Lösing's retention of title shall also remain in force if the delivery item is only temporarily connected to a plot of land or incorporated into a building for a temporary purpose (see Section 95 BGB).
- d) The purchaser is only entitled to resell the retained goods, to process or combine them with other items or a property in the ordinary course of business and subject to the proviso that it does not agree a prohibition of assignment with third parties. The purchaser's claim arising from the resale of the retained goods, regardless of whether said goods are unchanged, processed and/or developed, and irrespective of the number of buyers, is hereby assigned to Lösing in the amount of the invoice value of the delivery items plus the applicable value-added tax. Lösing hereby accepts the assignment.
- e) Lösing agrees to an assignment of the purchaser's claims arising from the resale of the items delivered by Lösing against its third-party customers as part of genuine factoring (assignment to the factor in lieu of performance), but subject to the condition that said claims are sold at a reasonable price as part of proper business transactions and the purchaser assigns its payment claims against the factor from the sale of the claims against its third-party customers to Lösing and instructs the factor to make payment only to Lösing. Lösing hereby accepts the assignment. If, contrary to the above obligation, the purchase price is lower than Lösing's claim, this shall not affect any further claims by Lösing. The purchaser must provide Lösing with any and all information necessary to assert its claims against the factor.
- f) The purchaser is not entitled to dispose of the retained goods in any other way. It shall undertake to promptly inform Lösing of any seizure or other restrictions placed on the delivery items by third parties and to inform Lösing of its rights. The purchaser shall bear the necessary costs of intervention by Lösing.
- g) Despite the assignment, the purchaser remains authorised to collect claims alongside Lösing. Lösing shall not collect the claim and shall not disclose the assignment, provided the purchaser duly meets its payment obligations. At Lösing's request at any time, the purchaser shall inform Lösing of the debtors involved in the assigned claims and shall notify the debtors of said assignment.



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- h) The retention of title shall also remain in force if individual claims by Lösing are included in a current account, a balance is struck and this is acknowledged.
 - i) Ownership of the retained good and the assigned claims shall readily transfer to the purchaser upon payment in full of all claims, including costs and interest, that Lösing has from its business relationship with the purchaser. However, upon request by the purchaser, Lösing shall undertake to release any security owed to it pursuant to the above provisions at its own discretion if and insofar as its value exceeds the claims to be secured by ten per cent (10%).
- 8. Documentation, industrial property rights**
- 8.1. Lösing is exclusively entitled to copyrights to drawings or documents prepared by us and any and all other associated industrial property rights and rights of use.
 - 8.2. The purchaser is liable for ensuring that no third-party industrial property rights are infringed upon by the products manufactured by Lösing in accordance with the purchaser's planning specifications. It shall indemnify Lösing from any and all third-party claims relating to such violations of industrial property rights.
- 9. Warranty**
- 9.1. In commercial business transactions, the purchaser shall undertake to comply with its statutory obligations to inspect and provide notice of defects. If the purchaser is certified in accordance with the applicable quality assurance standards, the level of care to be exercised in this respect, including in relation to Lösing, shall be based at a minimum on the purchaser's quality assurance provisions, unless general commercial standards already require a higher level of care by the purchaser. Lösing shall not be liable for damages arising from a breach of this obligation by the purchaser or for damages that would have been avoided had the purchaser exercised the due diligence required under the above provisions.
 - 9.2. Lösing shall offer a warranty on the products for material defects and defects of title. Liability for material defects is subject to strict compliance with Lösing's assembly, processing and operating instructions. Lösing shall not assume any warranty for incorrect processing or operation unless this is attributable to unclear or incomplete assembly and/or operating instructions. Furthermore, the warranty shall not cover damage due to natural wear and tear, excessive use or chemical or physical influences not attributable to Lösing.
 - 9.3. If and insofar as a purely purchase-based contract involves a defect in the delivery item, Lösing is entitled, at its own discretion, first to render supplementary performance (removal of defects or delivery/manufacture of a defect-free item). The purchaser may only claim damages if the defect in the delivery item is attributable to Lösing. Reimbursement for any removal and installation costs incurred by the purchaser as a result of the defectiveness of the delivery item shall be governed by Section 439 Paragraph 3 BGB.
- 9.4. When processing raw materials, semi-finished or finished products provided by the purchaser, Lösing is required but also entitled, in the event of a defect in the work it performs, to supplementary performance at its discretion. If the supplementary performance fails, the purchaser may only claim the typically foreseeable amount of damages.
 - 9.5. Lösing shall undertake to bear any and all expenses necessary for the purpose of its supplementary performance, in particular transport, travel, labour and material costs, provided that such expenses are not increased in a manner considered unforeseeable for Lösing by the fact that the delivery item was brought by the purchaser to a place other than the agreed place of delivery.
 - 9.6. The limitation period for claims by commercial purchasers for supplementary performance and damages due to defects of new movable items delivered or manufactured by us is one (1) year.
 - 9.7. The purchaser may not assign its warranty claims to third parties.
- 10. Other damages**
- 10.1. If, with the exception of the cases already mentioned, the purchaser is entitled to damages pursuant to the statutory provisions, Lösing's liability shall be limited to intent and gross negligence on the part of its legal representative or executive employees. However, this shall not apply to damages resulting from injury to life, limb or health caused by a negligent breach of duty and wilful or grossly negligent breach of duty by a legal representative or agent of Lösing. Furthermore, this shall not apply to damages caused by a culpable breach of material contractual obligations or by a grossly negligent breach of non-material contractual obligations by a simple vicarious agent of Lösing.
 - 10.2. In any case, liability shall be limited to the amount of typically foreseeable damages.
- 11. Data protection**
- With respect to the processing of personal data or data that can be used to identify a person, Lösing would refer you to the Privacy Notice on its website (<http://www.loesing-herford.de>). We are happy to send this information to the purchaser on request.
- 12. Jurisdiction and applicable law**
- 13.1. The exclusive place of jurisdiction for any and all present and future claims arising from this business relationship shall be the registered office of Lösing. In active lawsuits, Lösing is entitled, at its discretion and irrespective of the amount in dispute, to appeal to the local court responsible for its registered office.
 - 13.2. The legal relations between the Parties shall be governed exclusively by German law, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
 - 13.3. Severability clause
 Invalidity of individual contractual provisions, in whole or in part, shall not affect the validity of the remaining contract.