



General Terms and Conditions of Delivery and Payment

I. General provisions

1. The following General Terms and Conditions shall apply for any contracts entered into between the customer and us with regard to the delivery and installation of goods. The revision of our General Terms and Conditions of Delivery and Payment valid at time of submission of the order shall constitute the sole definitive version. Any deviating conditions on the part of the customer not explicitly acknowledged by us shall be deemed non-binding for us, even when we do not object to them explicitly. The following General Terms and Conditions shall also apply in case we execute the customer's order without prejudice while being aware of contradicting or deviating conditions.
2. The contracts contain any and all agreements reached between the customer and us with regard to the fulfillment of the contracts in writing. Verbal agreements shall only become effective upon being confirmed in writing.

II. Offers and the conclusion of agreements

1. Our offers are without engagement and non-binding. The order qualifies an offer to enter into a contract. The contract shall only become effective after being confirmed by us in writing. The final extent of the contractual content shall be determined by a written order confirmation including its enclosures. The customer shall review the content of the order confirmation and indicate any deviations from their order immediately. Any further orders, amendments or side agreements shall be made in writing.
2. We shall reserve our property rights, copyrights and other protective rights to any and all images, calculations, drawings and other documents. The customer shall only use them or forward them to a third party subject to our written agreement, whether we marked them confidential or not. Any documents labeled confidential shall be handed over to us at once on demand.

III. Terms of payment

1. Our prices shall be valid ex works Regensburg without packaging, provided nothing to the contrary is stipulated in the order confirmation. Our prices are net plus the valid value-added tax. We shall account for the latter in the legally applicable amount separately on the invoice on the date of the issuance of the invoice.
2. Installations and other services shall be invoiced separately, provided nothing to the contrary is stipulated in the order confirmation. Please contact us for any further information on this subject. Travel and waiting time shall be considered working time.
3. Should any major changes be made to personnel, material or energy costs, both parties to the contract shall be entitled to demand an appropriate price adjustment taking these factors into consideration.
4. Cash discounts shall only be permissible subject to a special written agreement between us and the customer. The purchase price shall be payable within 14 days by advance payment (upon delivery of the goods) after the customer has received the invoice, provided no other payment target was indicated on the invoice or order confirmation. For shipments only containing goods, delivery will only be made upon receipt of the payment (unless a different payment target was agreed on). The payment term of 14 days upon receipt of the invoice shall also apply to payment claims for our company's installation services.



In case of partial deliveries, we shall reserve the right to prepare a partial invoice. Payments shall only be considered effected as soon as we are able to dispose of the money. In case of payment by check, payment shall only be deemed effected upon cashing the check.

5. Should the customer fall behind on a payment, the relevant legal provisions shall apply. Should the customer be an entrepreneur, the debt shall be subject to an interest rate of 8 percentage points above the corresponding base interest rate for the duration of the payment arrears. Should the customer be a consumer, an interest rate of 5% above the corresponding base interest rate shall apply. We shall reserve the right to provide evidence of any higher damage caused by the delay and assert any corresponding claims.
6. The customer shall only be entitled to offset any amounts, provided the counterclaims are established as legally binding, recognized by us or undisputed, even if any notices of defect or counterclaims were asserted. The customer shall only be permitted to exercise any rights of retention, provided their counterclaim is based on the same contractual relationship.
7. Should it become apparent that our payment claim is endangered due to a lack of solvency on the part of the customer, we may refuse fulfilling the order and set an appropriate notice period for the customer during which they shall pay step by step against delivery or provide collateral. Should the customer reject this offer or should the notice period expire, we shall be entitled to withdraw from the contract and claim damages for non-performance.
8. In case of any delayed payment, we may delay fulfilling our duties until receiving payment, subject to the prior written notification of the customer.

IV. Delivery and performance periods

1. Delivery dates or notice periods not explicitly determined binding, shall exclusively be considered non-binding information. The delivery time we indicated shall only begin after any technical questions were answered and after the first payment was credited to our account. The customer shall equally fulfill any and all of their obligations in a duly and timely fashion.
2. Should the underlying contract be considered a fixed-date transaction within the meaning of Article 286 Paragraph 2 No. 4 of the German Civil Code [*Bürgerliches Gesetzbuch, BGB*] or of Article 376 of the German Commercial Code [*Handelsgesetzbuch, HGB*], we shall assume liability pursuant to the relevant legal provisions. The same shall apply in case the customer is entitled to assert the cessation of their interest in fulfilling the contract as a result of a delay in delivery we were responsible for. In this case, our liability shall be limited to the foreseeable damage typically occurring, provided the delay in delivery is not due to an intentional violation of the contract we were responsible for, whereas any faults on the part of our representatives and agents shall be attributed to us. We shall also assume liability pursuant to the relevant legal conditions in case of delay in delivering, provided the delay is due to gross negligence or intentional violation of the contract we are responsible for, whereas any faults on the part of our representatives and agents shall be attributed to us. Our liability shall be limited to the foreseeable damage typically occurring, provided the delay in delivery is not due to an intentional contractual violation for which we bear the responsibility.
3. Should a delay in delivery be based on a culpable violation of a material contractual obligation for which we bear the responsibility, whereas any faults on the part of our representatives or agents shall be attributed to us, we shall assume liability pursuant to the legal regulations, provided the liability for compensation shall be limited to the foreseeable damage typically occurring in this case.



4. Any further liability for delays in delivery we bear the responsibility for shall be excluded. Any further legal claims and rights on the part of the customer which they are entitled to in addition to the claims for damages shall remain unaffected thereof.
5. We shall be entitled to perform partial deliveries and partial services at any time, provided this does not constitute an unreasonable burden for the customer.
6. In case of any acceptance delays of the customer, we shall be entitled to claim compensation for any subsequent damage and for any additional expenses. The same shall apply in case the customer culpably violates any obligations to cooperate. The risk of an accidental deterioration and accidental destruction shall be transferred to the customer upon the occurrence of any acceptance delays or debtor's delays.

V. Transfer of risk – delivery / packaging

1. Should the customer be an entrepreneur, the risk of accidental deterioration and accidental destruction of the goods shall be transferred to the customer upon delivery / handover of the goods in the warehouse of Ice Business to the forwarder, carrier or to any other individual or institution commissioned with the delivery. Should delivery be delayed or remain unfulfilled due to circumstances not attributable to us, the risk shall be transferred to the customer from the day the delivery is ready for dispatch. We shall undertake taking out insurance requested by the customer for the customer's account.
2. Packaging, loading and dispatching (domestic delivery only) shall be performed uninsured and for the customer's account and on the most efficient and inexpensive route of transport. Please contact us for any further information on the subject. We shall endeavor to respect the wishes and interests of the customer with regard to the mode and route of transport; any additional expenses accrued for this reason – even in case free shipping was agreed on – shall be for the customer's account.
3. Should delivery be delayed at the customer's request or due to a fault on the part of the customer, we shall store the goods for the account and at the risk of the customer. In this case, indicating the good's readiness for delivery shall be equivalent to the actual dispatch.
4. We shall take out transport insurance for the delivery at the customer's request and for the account of the customer.

VI. Warranty / liability

1. Should the customer be an entrepreneur, claims for defects may only be asserted, provided the customer duly fulfilled their inspection and notification obligations pursuant to Article 377 HGB. Customers who are not entrepreneurs shall notify us in writing of any apparent defects within a notice period 2 weeks from receiving the goods. The notice period shall be deemed respected when the written notification was sent in time. For installation services, claims for defects due to apparent defects shall be excluded, should the customer not have reserved their rights explicitly upon accepting the services.
2. In case of a defect which is our responsibility, we shall initially only be obligated to deliver a rectification, unless we are legally entitled to reject rectification based on the corresponding legal provisions. The customer shall grant us an appropriate amount of time to perform the rectification. The rectification may be conducted by eliminating the defect (rework) or by delivering a new product, whichever the customer chooses. Should the customer be an entrepreneur, we shall bear the necessary costs for eliminating the flaw, as the case may be, provided the costs do not increase due to the subject of the contract being located at a place which is not the original place of delivery. Should the customer be a consumer, the obligation to bear the cost of eliminating shall be regulated by the applicable legal provisions.



Should the rectification fail, the customer may demand to have the purchase price lowered (price reduction) or declare their withdrawal from the contract, as the case may be. The rectification shall be regarded failed after a second unsuccessful attempt, provided any further rectification attempts are not appropriate and reasonable for the customer due to the subject of the contract. Any claims for damages subject to the following conditions and due to the defect may only be asserted by the purchaser, provided the rectification was a failure. The purchaser's right to assert any further claims for damages subject to the following conditions shall remain unaffected thereof.

3. Should the customer be an entrepreneur, the warranty entitlements expire one year after delivering the goods to the customer, unless we maliciously concealed the defect; in this case, the legally applicable provisions shall apply.
4. Should the customer be an entrepreneur, we shall also be obligated to reclaim the new goods or to lower (price reduction) the purchase price without setting a notice period otherwise required, should the customer's purchaser, a consumer, demand the return of the goods or the lowering (price reduction) the purchase price from the customer or should a resulting recourse claim of this kind be presented to the customer. We shall moreover undertake to compensate the customer for any expenses, particularly transportation, road, work and material costs, which the customer had to bear for the final customer within the scope of the rectification due to a defect of the goods existing at the time of the transfer of risk. The claim shall be excluded, should the customer not have fulfilled their inspection and notification obligation pursuant to Article 377 HGB in a proper fashion.
5. The obligation pursuant to Section VI Clause 4 shall be excluded, provided the defect is based on advertising statements or on other contractual agreements not caused by us, or provided the customer granted the final customer a special warranty. The obligation shall also be excluded, provided the customer was not obligated to exercise the warranty rights with regard to the final consumer, or provided the consumer did not object to a claim filed against them due to the legal regulations on exercising warranty rights. This shall also apply, provided the customer has granted warranty rights to the customer beyond the extent required by law.
6. We assume unrestricted liability in accordance with the legal regulations on damage to life, limb and health, caused by a negligent or intentional duty violation on our part, on the part of our legal representatives or on the part of our agents, as well as for any damage covered by the liability pursuant to the Product Liability Act. We also assume the liability in accordance with the legal provisions for any damage not covered by Sentence 1 and which is caused by intentional or grossly negligent contractual violations or in bad faith on our part, on the part of our legal representatives or on the part of our agents. Our liability for compensation shall, however, be limited to foreseeable damage typically occurring in any cases not covered by Sentence 1, to the extent our legal representatives or our agents did not act with intent. We also assume the liability within the scope of this warranty to the extent that we have provided a quality and / or durability warranty with regard to the goods or parts of the goods. We shall, however, only assume liability for any damage caused by defects in the guaranteed quality or durability, which does not affect the goods directly, provided the risk of such damage is clearly covered by the quality and durability warranty. We shall also assume the liability for any damage caused by simple negligence, provided the negligence concerns the violation of any contractual obligations, the fulfillment of which has special relevance for achieving the purpose of the contract (cardinal obligations). We shall, however, only assume any liability, provided the damage caused is typically occurring in connection with the contract, and provided they are of a foreseeable nature.
7. Any further liability shall be excluded, regardless of the legal nature of the asserted claim, and this shall in particular apply to claims in tort or claims for reimbursing futile expenses in lieu of the performance;



Our liability pursuant to Section IV Clause 2 to Section IV Clause 4 of this contract shall remain unaffected thereof. To the extent our liability is excluded or limited, this shall also apply to the personal liability of our employees, workers, staff members, representatives and agents.

8. Any claims for damages on the part of the customer which are related to a defect, shall come under the statute of limitations after one year from the delivery of the goods. This shall not apply in cases of injuries to life, limb and health, caused by us, our legal representatives or our agents, or in case we / our legal representatives acted with intent or gross negligence, or in case our ordinary agents acted with intent.

VII. Retention of title

1. Until all claims are fulfilled, including any and all current account balance claims we are entitled to from the customer at present and in the future, the goods delivered (reserved goods) shall remain our property. In case of any contractual violations on the part of the customer, such as payment defaults, we shall be entitled to reclaim the reserved goods subject to the stipulation of an appropriate grace period beforehand. Should we reclaim the reserved goods, this constitutes a withdrawal from the contract. We shall be entitled to realize the reserved goods after reclaiming them. After deducting an appropriate amount for the realization costs, the returns from the realization shall be offset with the amounts owed to us by the customer.
2. The customer shall handle the reserved goods with care and shall insure them sufficiently against damage due to fire, water and theft for their own account. Any maintenance and inspection work becoming necessary shall be performed by the customer for their own account.
3. The customer shall be entitled to realize and / or use the reserved goods in the course of ordinary business, provided they are not in default of payment. Pledges or assignments shall not serve as security. The customer shall hereby fully assign to us any claims arising from a resale or arising for another legal cause (insurance, unauthorized act) with regard to the reserved goods (including any current account balance claims) as security; we hereby accept the assignment. We hereby empower the customer revocably to collect the assigned claims for their account and in their own name. The collection authorization may be revoked at any time, should the customer not duly fulfill their payment obligations. The customer shall neither be authorized to assign this claim for factoring purposes, unless the factor simultaneously undertakes to take the compensatory measures for our benefit in the amount of the claims as long as we still have claims against the buyer.
4. The customer shall in any case process or transform the reserved goods on our behalf. Should the reserved goods be processed with other items not our property, we shall acquire co-ownership of the new item in relation to the ratio of the value of the reserved goods (final invoice amount including value-added tax) to the value of the other processed items at the time of processing. The new item created through processing shall be treated same as the reserved goods. In case of an inseparable combination of the reserved goods and other items not our property, we shall acquire co-ownership of the new item in relation to the ratio of the value of the reserved goods (final invoice amount including value-added tax) to the other combined items at the time of the combination. Should the customer's item be considered the main item after the combination, the customer and we are in agreement that the customer shall transfer pro rate co-ownership of the item in question to us; we hereby accept the assignment. The customer shall safeguard our sole or co-ownership of the item thus created on our behalf.
5. Should any third parties attempt to gain access to the reserved goods, particularly by means of pledges, the customer shall indicate that the goods are our property and immediately notify us in order for us to be able to enforce our property rights. Should the third party be unable to reimburse us the legal and extrajudicial costs arising in this connection, the customer shall assume liability accordingly.



6. We shall undertake to release the securities we are entitled to – to the extent that the realizable value of our securities exceeds the claims to be secured by more than 10% – whereas we shall select the securities to be released ourselves.

VIII. Place of fulfillment, place of jurisdiction, governing law

1. The place of performance and fulfillment for deliveries and payments (including any actions on checks and bills of exchange) is our company headquarters in Regensburg.
2. Should the customer be an entrepreneur, a legal entity under public law or a special fund under public law within the meaning of Article 38 of the German Code of Civil Procedure [*Zivilprozessordnung, ZPO*], the exclusive place of jurisdiction for any disputes arising from the contractual relationship – irrespective of the dispute value – is the Local Court of Regensburg.
3. This contract shall be governed by the laws of the Federal Republic of Germany, excluding the conflict of law's provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).

IX. General provisions

1. Any data related to individuals and companies shall be stored by us in accordance with the relevant legal provisions.
2. Should any provisions contained in this contract be or become fully or partially invalid or lose their legal effectiveness at a later time, the validity of the remainder of the contract shall remain unaffected thereof. In such a case, both parties shall undertake to agree on an effective regulation in lieu of the ineffective regulation, which – within the framework of the law – comes closest to the economic purpose of the ineffective regulation while taking into consideration the interest of the parties expressed in this contract. The same shall apply in case the contract contains any gaps not foreseen by the parties.

Regensburg, May 2014

Ice Business GmbH Professional Ice Rinks