General Conditions of Business, Delivery and Payment
of Gebr. FALLER GmbH

1. General Information

Exclusively the following Conditions of Business, Delivery and Payment apply to all transactions with FALLER. Deviating conditions of the buyer are expressly excluded from the contract, even if not expressly contradicted by FALLER.

Our offers are always non-binding; i.e. they are only an invitation to treat.

Explanations or assurances are only binding for FALLER if they have been issued in writing by the general management of FALLER or confirmed by the same. Orders only become binding upon written confirmation by FALLER or shipment of the goods. The buyer waives the requirement of receipt of the declaration of acceptance.

Minor design, shape and colour alterations to the contractual object with respect to samples, images and dimensional information are permissible insofar as they do not represent an undue burden on the buyer.

2. Prices, Performance Details

The prices are in euros unless otherwise specified and are understood not to include value-added tax. The value-added tax will be charged separately according to the respectively applicable tax regulations.

Price and performance details are only binding for FALLER if they have been issued in writing by the general management of FALLER or confirmed by the same. Agreed prices apply only to the respective order.

3. Payment Conditions

The payment of our invoice must take place within 30 days from the invoice date without deduction. For payment within 10 days of the invoice date, we grant a 2% discount; the same applies to deliveries against payment in advance as well as payment on delivery. If the buyer is in default on other invoices from FALLER, the deduction of a discount is not permitted.

Payment deadlines are considered met if FALLER has the amount at its disposal within the specified period. If no specific performance allocation has been agreed upon, payments are allocated to the oldest debt.

Cheques and bills of exchange — insofar as payment by bill of exchange has been specially agreed upon — are accepted as undertaking to pay. FALLER must be compensated immediately for discount and collection charges.

Offsetting or retention by the buyer is excluded. This exclusion shall not apply if the claim to offset or retention is undisputed or legally established. FALLER has the right to refuse exercise of the right of retention via provision of security — including by means of bank guarantee.
If the buyer defaults on his payment obligation in full or in part, he must — without prejudice to all other rights of FALLER — pay interest for default in the amount of an annual 8% above the base interest rate of the European Central Bank, insofar as FALLER does not establish higher damages.

If the buyer ceases his payments, in case of over-indebtedness or if the opening of composition or insolvency proceedings have been initiated, or if the buyer enters into default with the redemption of payable bills of exchange or cheques, the outstanding total claim by FALLER from the entire business relationship becomes immediately due for payment. The same applies if the financial circumstances of the buyer worsen in another way. In these cases, FALLER has the right to demand sufficient provision of security or to withdraw from the contract.

The buyer does not have the right to assign claims directed against FALLER unless a contractual provision deviating from this is expressly agreed to between the parties or between FALLER and the intended assignee.

4. **Retention of Title**

Delivered goods remain the property of FALLER until satisfaction of all claims by FALLER against the buyer (goods subject to retention of title), even if the individual goods have been paid for. Pledging or assignment as security of the goods subject to retention of title is not permitted without prior written approval by FALLER.

In the event of resale of the goods subject to retention of title, which is only permissible within the framework of ordinary business operations, the buyer assigns already at this time all future claims arising from the resale to FALLER as security until payment of all claims by FALLER.

Until revoked, the buyer is authorised to collect the assigned claim but is not authorised to dispose of it in any other way, e.g. through assignment, etc. Upon demand by FALLER, the buyer must inform the customer of the assignment and hand over to FALLER the documents, such as invoices, etc., and other necessary information required for making good FALLER's claims against the customer. All costs of collection and any interventions shall be borne by the buyer.

If the buyer defaults on his payment obligation or enters entirely or partially into default in the redemption of payable bills of exchange or cheques, in event of over-indebtedness or cessation of payments, or if an application for compensation or insolvency proceedings has been issued or another significant worsening of the financial circumstances of the buyer takes place, FALLER has the right to immediately take possession of all goods subject to the retention of title. Moreover, FALLER can immediately exercise all other rights arising from the retention of title.

The buyer grants the agents of FALLER access to his entire business premises during business hours. The demand for handover or the repossession of the goods subject to retention of title does not represent a withdrawal from the contract. FALLER has the right to utilise the goods subject to retention of title with the diligence of a prudent businessman and to use the proceeds to satisfy the outstanding claims via offsetting. If the value of the security exceeds the claims of FALLER against the buyer from the current business relationship by a total of more than 20%, FALLER is obligated upon the buyer's request to release securities to which it is entitled, selected by FALLER.

5. **Delivery / Delivery Deadline**

In principle, deliveries must take place as soon as possible. However, specified delivery periods and delivery deadlines are non-binding unless they have been bindingly agreed to by the general management of FALLER in writing.
If FALLER is prevented from timely performance of its deliveries and services due to unforeseeable events (war, strike, operating disruptions, natural catastrophes, transport impediments, official prohibitions, etc.) that lie beyond its control, the delivery period is extended accordingly.

The shipping of goods always takes place at the wish, on account of and at the risk of the buyer. As of a net order value of € 300.00, deliveries within Germany take place free of carriage charges. Otherwise the actually incurred costs will be invoiced. FALLER has the right to make partial deliveries.

6. **Claims of the Buyer in Event of Defects**

The claims of the buyer in event of faulty delivery expire in one year.

If the purchase is a commercial transaction for both parties, the buyer must inspect the goods immediately after receipt, insofar as this is feasible in the ordinary course of business, and notify FALLER immediately if a defect is discovered. If the buyer foregoes this notification, the goods are considered approved, unless the defect concerned was not identifiable during the inspection. Otherwise, §§ 377 ff. of the German Commercial Code applies.

The claims may be limited at FALLER’s discretion to elimination of the defect, delivery of a defect-free object (subsequent performance) or payment of appropriate monetary compensation for damages. If the subsequent performance fails, the buyer has the right to curtail or withdraw from the contract, at his discretion.

Further claims of the buyer, in particular due to the consequential damages of defects, are excluded. This does not apply in cases of intent, gross negligence or violation of significant contractual obligations by FALLER as well as in cases of injury to life, body or health. The right of the buyer to withdraw from the contract remains unaffected.

7. **Liability**

Insofar as nothing to the contrary is established above, FALLER and its vicarious agents are liable as follows for claims for compensation of damages by the buyer from positive violation of contractual duties, from the violation of obligations from contract negotiations or from illicit actions:

a) The liability for personal injuries is determined according to the statutory provisions.

b) The liability for material damage is limited to € 250,000.00 per damaging event and € 500,000.00 in total.

c) The liability for financial damages is excluded.

The above liability restrictions (b and c) do not apply insofar as mandatory liability applies to typically foreseeable damages associated with the contract in event of damages to privately used property according to the Product Liability Act or in cases of intent, gross negligence, violation of significant contractual obligations or the absence of promised characteristics.

8. **Returns**

FALLER is not obligated to accept returns of properly ordered and delivered goods. Exceptions require the written approval of the general management of FALLER.
9. **Usage of brands**

FALLER is the proprietor of various word marks and brand sets (hereafter referred to as “brands”). These can be looked up on www.dpma.de.

The buyer is entitled to use the brands for advertising FALLER products as follows:

a) The brands’ forms of appearance must not be altered. When using the brands, sizes, coloring and other aspects of appearance must not be altered.

b) The used brand has to exactly meet the standards of the registered form.

c) The buyer is entitled to use the brands for promoting and offering FALLER products e.g. for flyers or advertisements.

The buyer is not entitled to use verbal components of the brands as company name respectively as part of a company name, as internet domain respectively as part of an internet domain, as company symbol(s), as first, second, third or higher level domain nor as part of an email address.

The buyer is not entitled to use the brands in non-visual form, in particular not for meta-tags (keywords for search engines) or for sponsoring search engines if the advertisements appearing against payment completely or partly depict the brands.

The buyer is not entitled to use the brands for merchandising purposes, i.e. the distribution of products with corresponding labeling / brands.

10. **Place of Performance, Place of Jurisdiction**

If the buyer is a merchant, the exclusive place of jurisdiction and performance is Gütenbach, including for cheques and bill of exchange proceedings.

The same place of jurisdiction applies if the buyer has no place of jurisdiction in the Federal Republic of Germany at the time at which court proceedings are initiated.


10. **Severability Clause**

Any ineffectiveness of individual provisions of the general conditions of business above shall not affect the effectiveness of the remaining provisions.