

## **§ 1 GENERAL– SCOPE**

- (1) Our general terms and conditions apply exclusively. We do not recognize conflicting or divergent terms applied by the Purchaser, unless we have expressly agreed to their validity in writing. Our terms and conditions shall apply if we execute the delivery to the Purchaser, despite having knowledge of conditions on the part of the Purchaser that contradict or deviate from our terms and conditions.
- (2) All agreements made between us and the purchaser shall be in writing - in the mutual interest, in order to avoid confusion. Additional conditions or contractual clauses inserted by the purchaser shall be considered as rejected, unless we have agreed to these additional provisions in writing.
- (3) Our terms and conditions apply only to entrepreneurs within the meaning of § 310 paragraph 1 of the BGB [German Civil Code].

## **§ 2 OFFER – OFFER DOCUMENTS**

- (1) If the order qualifies as an offer according to § 145 BGB, we may accept it within 2 weeks.
- (2) We reserve the right to the ownership of and the copyright to figures, drawings, calculations and other documents. This also applies to written documents designated as “confidential”. They may not be passed on to third parties by the Purchaser without our express written consent.

## **§ 3 PRICES – PAYMENT TERMS**

- (1) Unless the order confirmation states otherwise, our prices are "ex works", excluding packaging (EXW according to INCOTERMS), which is invoiced separately.
- (2) The statutory value-added tax is not included in our prices. It shall be separately specified at the statutory rate on the day of invoicing, shown separately on the invoice and must be paid by the Purchaser.
- (3) Deduction of a cash discount requires a special written agreement.

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- (4) Unless otherwise stated in the order confirmation, the purchase price is payable net (without deduction) within 30 days of the invoice date. The statutory provisions governing the consequences of late payment shall apply.
- (5) Cheques and bills of exchange shall only be accepted as conditional payment, and in the case of bills of exchange, only by prior arrangement. We shall not be liable for timely presentation or disputing of payment in case of non-acceptance. Discount charges and other charges are payable by the sender.
- (6) Where there is a justified reason to do so, especially in case of late payment, non-acceptance of a bill or cheque, or insolvency proceedings involving the assets of the purchaser, we can demand advance payments or collateral prior to delivery. In these cases, all our claims, including those issued for the exchange, shall become due immediately.
- (7) The Purchaser shall only have the right to offset if his counter-claims are established to be legally effective, uncontested or recognised by us. In addition, he is only entitled to exercise retention rights if his counter-claim arises from the same contractual relationship.

### **§ 4 DELIVERY PERIOD**

- (1) The period of delivery determined by us shall only commence after all technical questions have been resolved.
- (2) Compliance with our delivery obligation is subject to the timely and proper fulfilment of the Purchaser's obligations. We reserve the right to claim breach of contract.
- (3) If the purchaser falls into default of acceptance or if he culpably breaches other cooperation duties, we shall be entitled to demand compensation for the loss incurred by us, including any extra expenditures. The right to make further claims is reserved.
- (4) Insofar the requirements of Para. (3) are applicable, the risk of accidental loss or accidental deterioration of the goods shall be transferred to the Purchaser at the time when he is in default of acceptance or payment.

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- (5) We are liable in accordance with the statutory provisions if the sales contract in question is a transaction for delivery by a fixed date within the meaning of §286 Section 2 No. 4 of the BGB (German Civil Code) or § 376 HGB [German Commercial Code]. We are also liable in accordance with the statutory provisions if as the Purchaser is entitled, as a consequence of a delay in delivery for which we are responsible, to assert that he has no further interest in the fulfilment of the contract.
- (6) We shall further be subject to the statutory provisions if the default in delivery results from an intentional or grossly negligent breach of contract attributable to us or one of our representatives or vicarious agents. If the default in delivery does not arise from a deliberate breach of contract on our part, our liability for damages is limited to foreseeable, typically occurring damage.
- (7) We are also liable according to the statutory provisions if the delivery delay arises from our culpable breach of an essential contractual obligation, in which case the liability for damages shall, however, be limited to foreseeable, typically occurring damage.
- (8) Further statutory claims and rights of the Purchaser are reserved.

### **§ 5 TRANSFER OF RISKS - PACKAGING COSTS**

- (1) Unless otherwise stated in the order confirmation, delivery is ex works (EXW according to INCOTERMS 2010).
- (2) Transportation and other packaging in accordance with the packaging regulations are not returnable; except for pallets. The Purchaser is obliged to arrange disposal of the packaging at his own responsibility and own expense.
- (3) If the Purchaser wishes, we will cover the delivery with transport insurance. The cost of this shall be borne by the Purchaser.

### **§ 6 LIABILITY FOR DEFECTS**

- (1) Damage claims by the Purchaser based on defects shall only exist if the Purchaser has properly fulfilled his obligation with respect to inspection and notification of defects, in accordance with § 377 HGB.

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- (2) If the purchased item has a defect, we are hereby contractually bound within the framework of supplementary performance at our own discretion to either remedy the defect or to supply a new item free of defects. If we remedy the defect, we are hereby contractually bound to bear all costs required to remedy the defect, in particular transport, travel labour and material costs, provided these are not increased by the fact that the item has been transported to a place other than the place of fulfilment.
- (3) If subsequent performance fails, the Purchaser is entitled - at his discretion - to withdraw from the contract or to ask for a price reduction.
- (4) We are liable in accordance with the statutory provisions if the Purchaser claims for damages arising from any intentional or grossly negligent breach by our representatives or vicarious agents. Insofar as the Purchaser does not assert any intentional breach of contract on our part, our liability is limited to the foreseeable, typically occurring damages for this sort of transaction.
- (5) We are liable in accordance with statutory provisions if we are responsible for a culpable breach of any essential contractual obligation; in which case our liability for damages is limited to foreseeable, typically occurring damage.
- (6) Liability for culpable injury to life, limb or health remains unaffected. This also applies to the mandatory liability under the Product Liability Act.
- (7) The limitation period for defect claims expires 12 months after risk has been transferred to the Purchaser. The limitation period in case of delivery recourse pursuant to § § 478, 479 BGB [German Civil Code] remains unaffected. This is five years from the delivery of the defective item.

### **§ 7 JOINT AND SEVERAL LIABILITY**

- (1) Any further liability for damages as set out in § 6 is excluded - regardless of the legal nature of the asserted claim. This applies in particular to claims for damages resulting from negligence when the contract was concluded, due to other violations or any other non-fulfilment of commitments or tortious claims for compensation for material damage pursuant to § 823 of the German Civil Code (BGB).

- (2) Insofar as our liability for damages is excluded or limited, this shall also apply to personal claims for damages of our salaried employees, workers, staff members representatives and vicarious agents.

### **§ 8 RETENTION OF TITLE**

- (1) The goods remain our property until all payments under the delivery contract have been received. If the Purchaser is in breach of contract, especially if he is in default of payment, we are entitled to take back the goods. The taking back of the goods by us does not constitute withdrawal from the contract, unless we have expressly declared this in writing. Seizure of the delivered goods by us shall always constitute a withdrawal from the contract. We are entitled to dispose of the goods after their return and the proceeds of the sale shall be deducted from the customer's liabilities - minus reasonable costs.
- (2) The Purchaser is obliged to handle the goods with care; in particular, he is obliged to insure the goods against fire and water damages and theft at replacement value at his own expense. If maintenance and inspection work is required, the Purchaser must perform this in a timely manner and at his own expense.
- (3) In the event of distraint orders or other interventions by third parties, the Purchaser must notify us in writing immediately, so that we can take legal action in accordance with § 771 ZPO (German Code of Civil Procedure). If the third party is not in a position to reimburse us for the legal and extra judicial costs of a legal action in accordance with § 771 ZPO, the Purchaser shall be liable for the losses incurred by us.
- The Purchaser is entitled to resell the purchased goods in the ordinary course of business. However, he shall assign to us all claims in the amount of the final invoice (including VAT), which arise from the resale of the goods to his customers or third parties, regardless of whether the goods were resold without or following processing. The Purchaser is authorised to receive these amounts on our behalf. Our right to collect such receivables ourselves remains unaffected. However, we are hereby contractually bound not to collect such receivables if the Purchaser is not in default of payment of the received proceeds, is not in arrears of payment and in particular, if no petition for the initiation of insolvency proceedings has been filed and the Purchaser has not suspended payment. If this is the case, we can demand that the Purchaser informs us of the assigned claims and of his debtors, provides all the information necessary for collection, hands over the relevant documents, and informs the debtors (third parties) of the assignment.

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- (4) We undertake to release the securities due to us at the request of the Purchaser, insofar as the realizable value of our securities exceeds the receivables to be secured by more than 20%. The selection of the securities to be released is at our discretion.

### **§ 9 JURISDICTION – APPLICABLE LAW – PLACE OF PERFORMANCE**

- (1) Our registered office is the place of jurisdiction. However, we are entitled to sue the customer at the court of his registered office.
- (2) The law of the Federal Republic of Germany, excluding the UN Sales Convention, applies.
- (3) Unless otherwise stated in the purchase order, the place of performance is our registered office.

### **§ 10 AUTHORITATIVE VERSION**

The conditions are available in German and English. The English version is for reading purposes only. In the event of discrepancies between the German and the English version, the German version is the authoritative version and is legally binding.