

§ 1 Validity of the Terms and Conditions

1. Our supplies, services and offers are carried out exclusively on the basis of these General Terms and Conditions. These shall also apply to all future business relationships, even if they are not explicitly agreed again. These terms and conditions are considered to be accepted with the receipt of the product or service. Terms and conditions and/or conditions of purchase of the customer are hereby rejected. They only shall apply in case they are explicitly confirmed.

2. Any and all agreements made between the customer and us for the purpose of carrying out this contract must be made in writing.

3. Our sales terms shall only be valid vis-à-vis entrepreneurs in the sense of § 310 Par.1 BGB [German Civil Code].

§ 2 Offer and Conclusion of a Contract

1. Our offers are subject to confirmation and are unbinding. Any and all declarations of acceptance and orders need to be confirmed by us in writing or by fax to become legally effective.

2. Our employees are not authorised to make any oral collateral agreements or oral confirmations which go beyond the content of the written contract.

3. Any and all Drawings, illustrations, weights, measures and other performance data are only binding if they are expressly agreed in writing.

4. We reserve the right of ownership and copyrights for any and all illustrations, drawings, calculations and other documents. This also applies to written documents deemed "confidential". Disclosure to third parties requires our express prior written consent.

§ 3 Prices and Terms of Payment

1. Insofar as not otherwise stated in our confirmation of order, our prices are "ex warehouse" excluding packing which will be charged separately.

2. We reserve the right to modify our prices accordingly if cost reductions or increases take place following the conclusion of the contract, in particular, due to wage settlements and changes in materials prices. We will provide proof of such at the customer's request.

3. Cash discount deductions require a separate written agreement.

4. The legal provisions shall apply with respect to any delay in payment.

5. Notwithstanding the instructions of the customer, we are entitled to set-off payments against the latter's older debts first. We shall inform the customer of the type of set-off carried out. If costs and interest have already been accrued, we are entitled to set off payment against the costs first, then the interest, and finally the principal performance.

6. The customer is only entitled to set off its counter claims if they are legally established, uncontested or acknowledged by us. Furthermore, the customer is entitled to assert a right of retention to the extent its counter claim concerns the same contract relationship.

§ 4 Period of Delivery and Performance

1. Dates and periods of delivery, which can be agreed bindingly or unbindingly, must be agreed in writing.

2. Fulfilment of our delivery and performance obligations requires prompt and proper fulfilment of the customer's obligations.

3. Our supply obligation shall be conditional upon the correct and punctual supply of goods to us for the incorrect or delayed supply of goods to us. This is only applicable in case we are not responsible for the non-delivery or delay, especially in case of a congruent hedging transaction with our supplier. The customer shall be informed about the non-delivery or delay immediately and the equivalent shall be refunded without delay.

4. We are not responsible for delays in deliveries or performance due to force majeure and due to events which temporarily make it significantly difficult or impossible for us to deliver – i.e. strikes, lockouts, official directives, including those occurring for our suppliers and sub-suppliers – even in the case of binding dates and deadlines. The latter entitles us to postpone delivery and/or performance for the duration of the hindrance plus an appropriate lead time, or to fully or partially withdraw from the agreement due to the still unfulfilled portion.

5. If the hindrance lasts more than three months, after establishing an appropriate grace period, the customer is entitled to withdraw from the agreement in consideration of the unfulfilled portion of delivery or performance. If the delivery or performance period is extended, or if we are released from our obligation, the customer may not derive any claims to compensation from this. We may only invoke the aforementioned circumstances if we notify the customer immediately.

6. Insofar as we are responsible for failing to comply with binding periods and deadlines, or are in default, the customer is entitled to a penalty payment of one half percent for each full week of delay up to a maximum of five percent of the invoice value of the deliveries and services affected by the delay. Additional claims are excluded unless the delay involves gross negligence on our part, as a minimum.

7. We are entitled to partial delivery and performance at any time unless the partial delivery or performance is not of interest to the customer.

8. If the customer defaults in taking delivery, we are entitled to demand compensation for the losses we incur. If there is default in taking delivery, the risk of incidental deterioration and accidental destruction is passed to the customer.

§ 5 Passing of Risk

The Risk passes to the customer as soon as the shipment is handed over to the person carrying out the transport or as soon as it has left our warehouse for purposes of dispatch. If shipment is delayed at the request of the customer, the risk is passed to the latter when it is notified that the shipment is ready.

§ 6 Reservation of Title

1. We retain ownership of all goods until receipt of all payments and fulfilment of all other claims resulting from the business relationship with the customer. In the case of contractual breaches of the customer, particularly payment default, we are entitled to the return of the goods. Taking back the goods entails no withdrawal from the agreement. After the return of the goods, we are authorized to market them. The proceeds from their sale are credited against the debts of the customer with deduction of the appropriate exploitation costs.

2. The customer is obliged to handle the goods with care. In particular, he is obliged to insure them at his own cost against losses from fire, water and theft at their replacement value. If maintenance and inspection works are required, the customer must perform these promptly at its own cost.

3. Processing or alteration of the merchandize by the customer is always carried out for us without posing any obligation on us. If the merchandize is mixed inseparably with other objects not pertaining to us, then we acquire co-ownership of the new merchandize at the ratio of the value of the merchandize (final invoice amount, including VAT) to the other mixed objects at the time of mixture. With respect to the object arising through the processing, the same shall apply as to goods which were delivered conditionally. If, by such combining or mixing, our ownership expires, the Purchaser hereby transfers to us his ownership rights to the new goods in proportion to the invoice value of the reserved property and shall keep them in safe custody for us free of charge.

4. The customer also assigns us the debts to secure our claims against it which accrue vis-à-vis a third party with the incorporation of the merchandize to real property.

5. In the case of attachment or other third-party intervention, the customer must notify us immediately in writing so that we can take action under § 771 ZPO [German Code of Civil Procedure]. If the third party is not in a position to reimburse the out-of-court costs under § 771 ZPO. The customer shall reimburse us all costs incurring for the access to the good or for the return transport of the good.

6. The customer is entitled to re-sell the merchandize in the ordinary course of business. However, he hereby assigns us all receivables in the amount of the total invoice amount (including VAT) of our debt due accruing from the re-sale to its customers or other third parties, irrespective of whether the merchandize is re-sold after processing or not. The customer remains authorized to recover this debt even after assignment. We are authorized to recover this debt ourselves, but undertake not to do so as long as the customer fulfils its payment obligations from the proceeds collected, does not default, and, in particular, no request has been filed to initiate composition or insolvency proceedings, and there is no suspension of payments. However, if this is the case, we may demand that the customer notifies us of the assigned debts due and their debtors, provides all information required for recovery, hands over the relevant records, and informs the (third party) debtors of the assignment.

7. Upon the customer's request, we undertake to release the securities to which we are entitled to the extent that the realizable value of our securities exceeds the debts to be secured by more than 10%. We shall be responsible for selecting the securities to be released.

§ 7 Right to withdraw

1. We reserve the right to withdraw from the contract partly or completely, if the commencement of liquidation proceedings over the customer's assets is applied for, if we are informed that the customer was rated as unworthy for credit at the time of conclusion of the contract or if the customer discontinues his business.

2. With respect to continuing obligations the right to withdraw is substituted by the extraordinary right to terminate the contract without prior notice.

§ 8 Liability for Defects

1. In general, only the properties derived from the technical product description are considered characteristics of the merchandize. Public statements, promotions or advertisements of the manufacturer do not represent contractual characteristics.

2. If the customer receives faulty assembly instructions, we are only obliged to provide adequate assembly instructions, and then only if the error in the assembly instructions is an obstacle to proper assembly.

3. Customer warranty claims require that the latter has properly fulfilled its obligations to give notice of and examine defects in accordance with § 377 HGB [German Commercial Code].

4. Insofar as a product is defective, we are entitled to choose between supplementary fulfilment with remedy of the defect, or delivery of a new product free of defects. If the defect is remedied, we are obliged to bear all expenses required for such remedy, particularly transport, road, labour and material costs, provided these costs are not increased because the product is delivered to a location other than the place of performance.

5. If supplementary fulfilment fails, the customer is entitled to choose between withdrawal from the agreement and reduction of the purchase price.

6. The period of limitation for warranty claims is 12 months, starting with the passing of risk.

7. In the case of delivery claims under §§ 478, 479 BGB, the period of limitation is unaffected. This period is five years from delivery of the defective product.

§ 9 Overall Liability

1. We shall not be liable (a) in the event of ordinary negligence on the part of its executive bodies, legal representatives, employees or other vicarious agents; (b) in the event of gross negligence on the part of its non-executive employees or other vicarious agents, unless this constitutes a violation of basic contractual obligations. Compensation for the violation of a fundamental contractual obligation is – insofar as it is not intentional or due to gross negligence – limited to the typical loss or damage that could be reasonably expected to occur.

2. Liability for culpable injury to life, body or health is unaffected. This also applies to compulsory liability under the Product Liability Act.

3. Except as provided for in the preceding clauses, liability is excluded.

4. The aforementioned limitation of liability and exclusion of liability also applies to the non-contractual claims and claims for vain expenditures and disbursements according to § 284 BGB substituting claims for contractual damages.

5. If liability for damages is excluded or limited for us, this also applies to personal liability for damages of our staff, employees, workers, representatives and vicarious agents.

§ 10 Construction Modifications

We reserve the right to modify the construction at any time. Nevertheless, we are not obliged to carry out such modifications to products already delivered.

§ 11 Confidentiality

Unless otherwise agreed to in writing, the information submitted to us in relation to orders shall not be considered confidential.

§ 12 Applicable Law, Place of Jurisdiction

1. These General Terms and Conditions and all legal relationships between the customer and us are subject to the laws of the German Federal Republic. The provisions of the UN Convention on Contracts for the International Sale of Goods (CISG) is not applicable.

2. If the customer is a merchant, a legal entity under public law, or a special fund under public law, the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contract relationship is our business location.

§ 13 Severability

Should a provision of these General Terms and Conditions or a provision of other agreements be or become invalid, this shall not affect the validity of all other provisions or agreements.