

## 1. Scope of application

1.1. These General Terms and Conditions of Sales and Delivery apply exclusively to all our offers, deliveries and services. They form part of all contracts that we conclude with our contractual partners. They also apply to all our future deliveries, services or offers, insofar as legal transactions of a similar nature are concerned. The buyer's Terms and Conditions of Purchase or any other deviating agreements only apply if we confirm them in writing.

1.2. Any reference or counter-confirmation of the buyer on the grounds of his Terms and Conditions of Purchase is hereby expressly rejected.

## 2. Offer, contract conclusion and content of the contract

2.2. Our offers are non-committal and non-binding. They may be revoked at any time up until receipt of the written declaration of acceptance from the buyer or, if a declaration of acceptance has not been made previously, up until delivery of the goods.

2.3. Orders placed by the buyer become binding only upon our order confirmation or delivery of the goods. The buyer is bound to his order for two weeks – as of our receipt of it. During this period, we may turn down the conclusion of the contract. If the conclusion of the contract is not turned down during the period or if the goods are delivered before this deadline, then this contract shall come into existence, by way of exception, even without our order confirmation. We reserve the right of ownership and copyrights to all documents (calculations, drawings, etc.) provided to the buyer in connection with placing the order. Making any of this information available to third parties is prohibited. Use of this information may only be made for the purposes intended by us. Insofar as we do not accept the offer of the buyer within the two-week period, these documents must be returned to us without delay.

2.4. Costs for the production of drawings for special constructions are to be borne by the buyer if the offer does not lead to an order on account of reasons for which we cannot be held responsible.

2.5. The information contained in catalogues, brochures and price lists (e.g. weights, dimensions, capacities, drawings) are only approximate and are not binding, unless expressly agreed in writing. Otherwise, the contractually agreed properties of the goods are based exclusively on our product specification.

2.6. The information in the order confirmation is decisive as regards the scope of deliveries – if one does not exist, then the information contained in our offer is decisive.

2.7. We may base the delivery on any drawings, samples, design and other information provided by the buyer, the choice of materials by the buyer, etc. without carrying out our own check and without us bearing any liability for this. The assurance of appropriate properties requires written confirmation.

## 3. Prices and payment

3.1. Prices are ex works plus the statutory amount of value added tax in each case. Costs for packaging, transport insurance, customs, product certification, taxes etc. will be invoiced separately. This also applies to partial deliveries and urgent deliveries.

3.2. Unless a fixed price agreement has been made, reasonable price changes on account of changes in labour, material and distribution costs for deliveries made 3 months or later after contract conclusion remain reserved. The buyer shall receive notice of this.

3.3. Payment of the purchase price must be made exclusively to the account specified in the offer.

3.4. Unless otherwise agreed, the purchase price is payable within 10 days of invoicing, less 2% discount, or 30 days without any deduction. Default interest of 9% above the respective base interest rate p.a. and a fee of €40.00 will be charged. The assertion of greater damage caused by default remains reserved.

3.5. In case of any pending invoices issued by the buyer, payments will be offset against the oldest due claim.

3.6. If the buyer is in default of payment from previous deliveries or if his financial circumstances deteriorate after contract conclusion, payment must be made concurrently against delivery of the goods. The buyer can avert concurrent delivery by paying a security deposit in the amount of the purchase price. In case of any doubt about the buyer's ability to pay, we can withdraw from the contract or demand a security deposit giving a deadline. If this is not provided on time, we will withdraw from the contract. After withdrawal, we can assert claims for damages, in particular for the procurement of material that cannot otherwise be used.

3.7. In the event of late payment, we can combine all the goods still to be delivered into one delivery and make the compensation of all due invoices or an advance payment for invoices still to be drawn up a precondition. In addition, we are entitled to declare all outstanding claims at the time of default, regardless of the legal grounds for the default, due for payment and to terminate any instalment payment agreements. Until all open claims are settled, we are entitled to exercise the right of retention with respect to all goods or other services not yet delivered.

## 4. Delivery time, delay and lump-sum damages

4.1. Deadlines and dates for deliveries and services we provide are only approximate, unless a fixed deadline or fixed date has been expressly agreed. The beginning of the delivery time as specified by us requires the timely and proper fulfilment of the buyer's obligations. The defence of the unfulfilled contract remains reserved. The delivery time is extended accordingly by the period of the delay.

4.2. The delivery time is deemed met if the goods have left our factory by the expiry or we have made them ready for delivery and have informed the buyer of their readiness for shipment.

4.3. If the buyer is in default of acceptance or culpably violates other obligations to cooperate, we shall be entitled to demand compensation for the damage incurred in this respect, including any additional expenses. Further claims remain unaffected. If these conditions are met, the risk of accidental loss or deterioration of the goods passes to the buyer at the time at which the buyer is in default of acceptance or late payment.

4.4. Insofar as damage arises to the buyer due to a delay, we shall be liable for intentional or grossly negligent delivery delays for each completed week within the framework of a flat-rate sum of compensation for default of 0.5%, but not more than 5% of the delivery value. The right to prove lesser damage remains reserved. Any consequential damage is expressly excluded; this limitation of liability does not apply in case of intent or gross negligence.

4.5. We shall not be liable for the impossibility of delivery or for delays that are due to *force majeure* or other unforeseeable events (e.g. breakdowns of any kind, difficulties in procuring material or energy as well as necessary regulatory approvals, transport delays, strikes, legitimate lockouts, lack of manpower, energy or raw materials, official measures or missing, incorrect or non-timely delivery by suppliers), for which we are not responsible. If such events make delivery considerably more difficult or impossible, both contracting parties are entitled to withdraw from the contract with regard to the parts not yet fulfilled. In the case of obstacles of temporary duration, the delivery period shall be extended or postponed by the period of the delay, plus a reasonable starting period. The above provisions also apply if these events occur at a time when we are in default.

## 5. Shipping and transfer of risk

5.1. If the goods are despatched to the buyer at the buyer's request, the risk of accidental loss or accidental deterioration of the goods shall pass to the buyer upon handover of the goods to the freight forwarder, carrier or dispatcher – but at the latest upon leaving the factory. This applies regardless of whether the goods are shipped from the place of performance and regardless of whoever bears the freight costs.

5.2. If the goods are ready for despatch and the shipment is delayed for reasons for which the buyer is responsible, the risk shall pass to the buyer upon receipt of the notification of readiness for shipment.

## **6. Retention of title**

6.1. We reserve ownership of the delivered goods until full payment of all claims arising from the delivery contract. This also applies to all future deliveries, even if we do not always expressly refer to them. We are entitled to take back the goods if the buyer behaves contrary to the contract.

6.2. As long as the property has not been transferred to the buyer, he is obliged to treat the property with care. He has to insure it, at his own expense, against theft, fire and water damage, with the insured sum being adequate to cover the replacement value. If maintenance and inspection work has to be carried out, the buyer must arrange for this to be done at his own expense and in good time. He must notify us at once in writing if the delivered item is seized or subjected to other interventions by third parties. Insofar as the third party is not in a position to reimburse us for the court and out-of-court costs of a claim in accordance with Art. 771 ZPO [Code of Civil Procedure], the buyer is liable for any loss we incur.

6.3. The buyer is entitled to resell the reserved goods in the normal course of business. The buyer hereby assigns to us claims against the buyer from the resale in the amount of the final invoice amount agreed with us including value added tax. We hereby accept this assignment. This assignment applies regardless of whether the purchased item was resold without or after processing. Retention of title and assignment to us must be disclosed to the third party. The buyer remains authorised to collect the claim even after assignment. Our right to collect the claim remains unaffected. However, we will not collect it as long as the buyer meets his payment obligations from the proceeds received, is not in default of payment, and has not filed for insolvency.

6.4. The working and processing or remodelling of the goods by the buyer always takes place in our name and on our behalf. In this event, the buyer's expectant right to the purchased item continues with the remodelled item. If the purchased item is processed, combined or mixed with other items not belonging to us, we acquire co-ownership of the new item in proportion of the objective value of our purchased item to the other processed items at the time of processing. If the buyer acquires sole ownership of the new item, the contracting parties agree that the buyer grants us co-ownership of the new item in proportion to the invoice value of the processed, combined or mixed reserved goods and stores them free of charge on our behalf.

6.5. If the value of the securities granted exceeds the claims to be secured by more than 20%, we are obliged to release them at the buyer's request. Upon repayment of all claims arising from the business relationship, ownership of the reserved goods and assigned claims passes to the buyer.

## **7. Warranty, notice of defects and recourse/manufacturer's recourse**

7.1. Any warranty rights of the buyer presuppose that he has duly fulfilled his duties of inspection and complaint according to Art. 377 HGB [German Commercial Code].

7.2. Claims for defects expire 12 months after the delivery date. The statutory limitation period applies to claims for damages in the case of intent and gross negligence as well as injury to life, body and health, which are based on the intentional or negligent breach of duty of the user.

7.3. Should, despite all due care, the delivered goods have a defect that was already present at the time the risk was transferred, we will repair the goods, subject to the timely notice of defects, or deliver a replacement product. We must always be given an opportunity to provide supplementary performance within a reasonable period of time. Claims for recourse remain unaffected without restriction. If the repair fails, the buyer can – without prejudice to any claims for damages – withdraw from the contract or reduce the amount of remuneration.

7.4. Claims for defects shall not exist in the case of only insignificant deviation from the agreed quality, only insignificant impairment of usefulness, natural wear or tear and damage resulting after the transfer of risk as a result of faulty or negligent treatment, excessive use, unsuitable operating equipment or due to special external influences not presupposed under the contract arising. If the defect of the goods can be traced back to specifications or drawings of the buyer and if the delivery item was created in accordance with them – in particular according to drawings the buyer provided to us – then likewise no rights to assert claims for a reduction in the purchase price exist. This also applies to the solution of a design task given by the buyer, which was in line with the state of the art at the time of realisation. If the buyer or a third party carries out improper repair work or changes, no warranty claims can be asserted for these and the resulting consequences.

7.5. Claims of the buyer asserted on the account of the expenses required for the purpose of supplementary performance, in particular transport, travel, labour and material costs, are excluded if the expenses increase because the goods were subsequently delivered by us to a place other than the place of performance agreed in the delivery contract.

7.6. Claims for recourse of the buyer asserted against us exist only to the extent that the buyer has not made any agreements with his buyer beyond the legally binding claims for defects. Item 7.5 applies to the extent of the buyer's recourse claim vis-à-vis the supplier.

## **8. Industrial property rights and copyrights**

8.1. Checking to see whether documents provided by the buyer violate the rights of third parties – especially copyright and industrial property rights, e.g. registered designs, utility models, patents and trademarks – is the buyer's responsibility. If third parties assert claims against us for the use of the documents the buyer has provided to us due to the infringement of these rights or of the law against unfair competition, the buyer must assist us in defending ourselves against these legal offences and compensate us for any resulting damage.

8.2. Our services are subject to the condition that no obstacles arising from export control regulations stand in the way of their fulfilment. The buyer is obliged to provide us with all the information and documents necessary for export or shipment. If delays occur due to export inspections or approval procedures, they will invalidate delivery times. If permits are not granted or if the service is not able to be approved, the contract is deemed not to have been concluded with respect to the product concerned. We are also entitled to terminate the contract without notice if this is required by national or international regulations. In this case, the assertion of damages or other rights by the buyer is excluded. The buyer has to apply the provisions of national/international law when delivering the goods to third parties in Germany and abroad.

## **9. Other**

9.1. This contract and all legal relationships between the parties are subject to the laws of the Federal Republic of Germany, excluding the UN Sales Convention (CISG).

9.2. The place of fulfilment for payment and delivery is the seat of our company in Gosheim.

9.3. The place of jurisdiction for all disputes arising from the contractual relationship is the court responsible for our registered office. We are, however, entitled to sue at the buyer's headquarters.

9.4. Additional agreements, reservations, changes and additions require our written confirmation for them to be valid.

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