

1 GENERAL, SCOPE OF APPLICATION

- 1.1. These General Terms and Conditions (hereinafter "Delivery Terms ") shall apply to all of our business relationships with our customers (hereinafter "Buyer"). The Delivery Terms shall only apply if the Buyer is an entrepreneur (Sec. 14 of the German Civil Code (*Bürgerliches Gesetzbuch, BGB*)), a legal entity under public law or a special fund under public law.
- 1.2. The Delivery Terms apply in particular to contracts regarding the sale and/or delivery of movable objects (hereinafter also "Goods") irrespective of whether we produce the Goods ourselves or purchase them from suppliers (Secs. 433, 651 BGB). The Delivery Terms, in their respectively applicable version, shall apply as a framework agreement also to future contracts regarding the sale and/or delivery of movable objects with the same Buyer, without us having to refer to these again in each individual case; in such event, we will immediately inform the Buyer of any changes to our Delivery Terms.
- 1.3. Our Delivery Terms shall apply exclusively. Any diverging, contrary or complementary general terms and conditions of the Buyer shall only become a part of the contract if and to the extent we have expressly accepted their validity. This consent requirement shall apply in any case, e.g. also where we make a delivery without reservation to the Buyer even though we are aware of the Buyer's general terms and conditions.
- 1.4. Individual agreements made with the Buyer in the individual case (including side agreements, supplements and changes) shall always take precedence over these Delivery Terms. A written contract and/or our written confirmation shall be decisive for the contents of such agreements.
- 1.5. All statements and notifications of legal relevance required to be made by the Buyer vis-à-vis us after the conclusion of the contract (e.g. setting deadlines, notification of defects, declarations of withdrawal or reductions) must be made in writing to be effective.
- 1.6. Any references to the applicability of statutory provisions are made for clarification purposes only.
- 1.7. We reserve the right to change these Delivery Terms at any time, without giving reasons, unless an amendment is unreasonable. We will notify the Buyer of changes to the Delivery Terms in timely manner. If the Buyer objects to the validity of the new Delivery Terms within six (6) weeks after notification, the amended: Delivery Terms shall be deemed accepted by the Customer. In the notification we shall inform the Buyer of his right to object and the objection period.

2 ORDERS, CONCLUSION OF CONTRACTS

- 2.1. Our offers are non-binding and subject to change. This shall also apply if we have provided the Buyer with catalogues, technical documentation, other product descriptions or documents - also in electronic form - with regard to which we reserve rights of ownership or copyrights.
- 2.2. With the submission of an order, the Buyer bindingly declares his intention to purchase the ordered Goods. All orders, whether submitted orally, by phone or electronically, shall only be deemed accepted by us if and insofar we confirm such in writing or in text form or comply with such order by delivering the Goods along with an invoice. If the Buyer orders the Goods electronically, we will confirm receipt of the order without delay. The confirmation of receipt does not constitute a binding acceptance of the order. We may send the declaration of acceptance along with the confirmation of receipt.
- 2.3. Our order confirmation shall be relevant for the contractual content as well as the scope of delivery and performance.
- 2.4. The Buyer shall impose on commercial third parties, to whom he forwards the electrical and electronic Goods, the contractual obligation to properly dispose of such - after the termination of use at their own costs and in accordance with the statutory provisions - and to impose the same obligation on any person who may receive the Goods from them in the event of a further passing on.
- 2.5. If the Buyer fails to impose the contractual obligation on third parties, to whom he forwards the Goods, to take over the obligation to dispose of such Goods and to pass on the obligation, the Buyer shall be obliged to take back the delivered Goods after the termination of use at his own costs and to properly dispose of such in accordance with the statutory provisions.

3 DELIVERY AND DELIVERY DEADLINES

- 3.1. Unless otherwise agreed the delivery shall be ex works or sales room and/or warehouse, which is also the place of performance. If requested by the Buyer, the Goods will also be shipped to a different destination at the Buyer's costs (sale by delivery to a place other than the place of performance, *Versendungskauf*). Unless agreed otherwise, we are entitled to choose the means of shipment (in particular the forwarding company, dispatch route, packaging) at our own discretion.
- 3.2. Unless otherwise agreed delivery of goods is subject to prepayment.
- 3.3. Any import duties, fees, taxes and other public charges shall be borne by the Buyer.
- 3.4. The delivery period shall be agreed individually and/or indicated by us at the time the order is accepted.
- 3.5. Our performance and delivery deadlines commence with the date of the order confirmation and require the timely receipt of any and all documents, necessary permits and approvals to be submitted by the Buyer as well as compliance with the agreed payment terms and other obligations arising from the contractual relationship.
- 3.6. We shall have the right to reasonable partial deliveries. They are deemed independent deliveries. Partial deliveries shall be deemed reasonable if the Buyer can use the partial delivery for the contractually agreed purpose, delivery of the remaining ordered Goods is ensured, and this does not cause the Buyer considerable additional work and/or expenses (unless we agree to bear such costs).
- 3.7. Should we be unable to meet binding delivery deadlines for reasons beyond our control (non-availability of performance), we will inform the Buyer accordingly without undue delay indicating the expected new delivery deadline. Should the performance also remain unavailable within the new delivery deadline, we are entitled to withdraw from the contract in whole or in part; we will refund any consideration already rendered by the Buyer without undue delay. Non-availability of the performance in this sense shall be deemed in particular a delayed delivery caused by one of our suppliers, if we have concluded a congruent covering transaction, neither we nor our supplier are responsible for the delay or if we are not obliged to procure the Goods in the individual case.
- 3.8. In case of work performance, the Buyer shall provide the required equipment and auxiliary material in good time to ensure the timely performance and make all necessary arrangements.

4 DEFAULT IN DELIVERY

- 4.1. The commencement of our default in delivery shall be subject to the statutory provisions. In any case, however, a reminder by the Buyer shall be required. We reserve the right to furnish proof that the Buyer suffered no damage by the default in delivery or that only a significantly lower damage than asserted was suffered.
- 4.2. The Buyer's rights pursuant to Sec. 9 of these Delivery Terms and our statutory rights, in particular in case of an exclusion of the duty to perform (e.g. due to impossibility or unreasonableness of the performance and/or subsequent performance), remain unaffected.

5 PASSING OF RISKS, ACCEPTANCE, DEFAULT IN ACCEPTANCE

- 5.1. The risk of accidental loss and accidental deterioration of the Goods shall pass to the Buyer at the latest at the handover of the goods. In case of a sale by delivery to a place other than the place of performance, however, the risk of accidental loss and accidental deterioration of the Goods as well as the risk of delays shall already pass when the Goods are handed over to the forwarding agent, the carrier or another person or entity commissioned with carrying out the shipment. Insofar as an acceptance has been agreed upon, it shall be decisive for the passing of the risk. Also in all other respects, the statutory provisions governing the provision of works and services shall apply *mutatis mutandis* to an agreed acceptance. The Goods shall be considered consigned and/or accepted also when the Buyer is in delay with taking delivery.
- 5.2. If the Buyer is in default with accepting delivery or fails to carry out a cooperative action or if our delivery is delayed for other reasons within the Buyer's responsibility, we are entitled to claim compensation for any resulting damage including additional expenses (e.g. storage costs). We will charge a lump-sum compensation in the amount of 0.5% of the net price (delivery value) for each completed calendar week.

- 5.3. The provision of proof of a higher damage and our statutory rights shall remain unaffected. The lump-sum compensation shall be credited against any further payment claims. The Buyer may provide proof that we have suffered no damage at all or that the damage we suffered was significantly lower than the lump sum indicated above.

6 PRICES AND TERMS OF PAYMENT

- 6.1. Unless otherwise agreed in the individual case, our prices valid at the time of the conclusion of the contract shall apply ex works or sales room and/or warehouse plus statutory VAT.
- 6.2. In case of a sale by delivery to a place other than the place of performance (Sec. 3 clause 1), the Buyer shall bear the transport costs ex works as well as the costs of transport insurance if the Buyer requested such insurance. Any import duties, fees, taxes and other public charges shall be borne by the Buyer. We will not take back any transport packaging or other packaging in accordance with the German Regulation on Packaging (*Verpackungsverordnung, VerpackV*) as well as Pallets; they shall become the property of the Buyer. Deposit pallets shall be excluded.
- 6.3. Unless otherwise agreed in the particular case the Buyer shall be obliged to prepay the purchase price. Payment shall be due upon invoicing.
- 6.4. The Buyer shall be in default at the latest upon expiry of the aforesaid payment period. During the default, interest shall be payable on the purchase price at the respectively applicable statutory default interest rate. We reserve the right to assert further damages for default. *Vis-à-vis* merchants, our right to commercial default interest (Sec. 353 of the German Commercial Code (*Handelsgesetzbuch, HGB*)) shall remain unaffected.
- 6.5. The Buyer shall only have offsetting or retention rights insofar as his claim has been established with final legal effect or is uncontested. In case of defective delivery, the Buyer's counterclaims in particular pursuant to Sec. 8 clause 6 sent. 2 of these Delivery Terms shall remain unaffected.
- 6.6. If it becomes apparent after the conclusion of the contract that our claim for payment of the purchase price is jeopardized by a lack of capacity to perform on the part of the Buyer (e.g. due to an application for the opening of insolvency proceedings) we are entitled, pursuant to the statutory provisions, to refuse performance and - after granting a period for performance where applicable - to withdraw from the contract (Sec. 321 BGB). In case of contracts regarding the production of non-fungible goods (customized products), we are entitled to immediately declare a withdrawal; the statutory provisions regarding the dispensability of setting a deadline shall remain unaffected.

7 RETENTION OF TITLE

- 7.1. We retain title to the sold Goods until all of our present and future claims resulting from the purchase contract and an ongoing business relationship are paid in full.
- 7.2. The Buyer is neither entitled to pledge the Goods under retention of title to a third party nor to use them as a security before the secured receivables have been paid in full. The Buyer must immediately inform us in writing if and insofar as third parties access the Goods we own.
- 7.3. In case of a breach of contract by the Buyer, in particular in case of failure to pay the due purchase price, we are entitled to withdraw from the contract pursuant to the statutory provisions and/or to demand surrender of the Goods based upon the retention of title. The demand for surrender does not at the same time include a declaration of withdrawal; in fact, we are merely entitled to demand surrender of the Goods and to reserve the right to withdraw from the contract. If the Buyer fails to pay the due purchase price, we are only entitled to assert these rights if we have previously set the Buyer an appropriate payment deadline which has expired fruitlessly or if it is unnecessary pursuant to the statutory provisions to set such a deadline.
- 7.4. The Buyer is entitled to resell and/or process the Goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply additionally.
- a) The retention of title extends to the full value of the products created by way of processing, mixing or combining our Goods, in which case we shall be considered the manufacturer. If in case of processing, mixing or combining with goods of third parties their rights of title remain in place, we shall obtain joint ownership in the proportion of the invoice values of the processed, mixed or combined goods. In all

other respects, the resulting product shall be subject to the same provisions that are applicable to the Goods delivered subject to retention of title.

- b) The Buyer assigns to us the claims against third parties resulting from the resale of the Goods or of the product already now completely and/or in the amount of our potential joint ownership share pursuant to the preceding clause as a security. We accept such assignment. The duties of the Buyer listed in clause 2 shall also apply with respect to the assigned claims.
 - c) The Buyer shall remain authorised to collect the claim in addition to us. We undertake not to collect the claim as long as the Buyer meets his payment obligations vis-à-vis us and does not default in payment, no application for the opening of insolvency proceedings has been filed and there is no other deficiency in his ability to perform. However, if this is the case, we are entitled to request that the Buyer advise us of the assigned claims and the respective debtors, provides all of the information required for the collection, hands over the corresponding documents and informs the debtors (third parties) of the assignment.
 - d) If the realizable value of the securities exceeds our claims by more than 10%, we will release securities of our choice at the Buyer's request.
- 7.5. The right of title is also valid vis-à-vis the forwarding agent to whom the Goods are handed over at the request of the Buyer or at our request.
- 7.6. The Goods subject to retention of title shall be handled properly and insured by the Buyer at his costs against fire, burglary and water damage. Any insurance claims arising in the event of damage shall be assigned to us

8 BUYER'S RIGHTS IN THE EVENT OF DEFECTS

- 8.1. The Buyer's rights in the event of material or legal defects (including wrong or short deliveries as well as incorrect assembly or defective assembly instructions) shall be subject to the statutory provisions, unless agreed otherwise herein below. The special statutory provisions regarding the final delivery of the Goods to a consumer (recourse against the supplier pursuant to Secs. 478, 479 BGB) shall remain unaffected in any case.
- 8.2. Our liability for defects shall primarily be based on the agreement made regarding the quality of the Goods. Product descriptions (also made by the manufacturer) which form an integral part of the respective contract shall be considered an agreement regarding the quality of the Goods.
- 8.3. If no agreement has been concluded regarding the quality, the statutory provisions (Sec. 434 para. 1 sent. 2 and 3 BGB) shall determine whether a defect exists or not. However, we do not assume any liability for public statements of the manufacturer or other third parties (e.g. advertisements).
- 8.4. The Buyer's claims for defects shall be subject to the Buyer's compliance with its statutory duties to inspect and to report defects (Secs. 377, 381 HGB). If a defect becomes apparent during an inspection or afterwards, we must be notified accordingly in writing without undue delay. The notification shall be deemed made without undue delay if it is made within two weeks; the timely dispatch of the notification shall be sufficient to observe the notification period. Irrespective of this duty to inspect and to report defects, the Buyer must report any obvious defects (including wrong and short deliveries) in writing within two weeks from delivery; again, the timely dispatch of the notification shall be sufficient to observe the notification period. If the Buyer fails to duly inspect the delivery and/or to duly report defects, our liability for the defect which was not reported shall be excluded.
- 8.5. If the delivered item is defective, we are at first entitled to choose whether to effect subsequent performance by remedying the defect (subsequent improvement) or by delivering a defect-free item (replacement delivery). Our right to refuse subsequent performance pursuant to the statutory provisions shall remain unaffected.
- 8.6. We are entitled to make the owed subsequent performance subject to payment of the due purchase price by the Buyer. The Buyer is, however, entitled to retain part of the purchase price in an amount reasonably proportionate to the defect.
- 8.7. The Buyer must grant us the time and opportunity required for the owed subsequent performance, in particular to provide us with the Goods subject to complaint for inspection. In case of a replacement delivery, the Buyer shall return the defective item to us pursuant to the statutory provisions. The

subsequent performance includes neither the disassembly nor the reassembly of the defective item if we were not initially obliged to carry out the assembly.

- 8.8. The expenses required for the purposes of inspection and subsequent performance, in particular costs of transport, travel, work and material (not: costs of assembly and disassembly) will be borne by us if a defect actually exists. However, should a request by the Buyer to remedy a defect prove unwarranted, we are entitled to claim from the Buyer compensation for the expenses incurred in this context.
- 8.9. In urgent cases, e.g. if operational safety is at stake or in order to avoid disproportionate damage, the Buyer has the right to remedy the defect himself and to request us to provide compensation for expenses objectively necessary in this context. If the Buyer intends to remedy the defect himself, we must be notified without undue delay, if possible before the work commences. The right of the Buyer to carry out repairs himself shall not apply if we are entitled to refuse the respective subsequent performance pursuant to the statutory provisions.
- 8.10. We will not assume any liability for defects in products which were not manufactured by us. However, we agree to assign own claims against the manufacturer or our supplier to the Buyer. At any time upon request, we will disclose to the Buyer any claims we have against the manufacturer or our supplier. However, our warranties continue to exist if the warranty claims against the manufacturer or supplier, in terms of their scope, do not correspond to the warranties assumed under these Delivery Terms.
- 8.11. Claims of the Buyer for damages and/or reimbursement of futile expenses shall only exist pursuant to Sec. 9 and shall be excluded in all other cases.
- 8.12. Additional Warranty conditions agreed in the particular case remain unaffected.

9 OTHER LIABILITY

- 9.1. Unless otherwise stipulated in these Delivery Terms including the following provisions, we shall be liable for breaches of contractual and non-contractual duties pursuant to the applicable statutory provisions.
- 9.2. We can be held liable for damages - irrespective of their legal grounds - in cases of intent and gross negligence. In cases of slight negligence, we shall only be liable
 - a) for damage resulting from injuries to life, body or health,
 - b) for damage resulting from a violation of an essential contractual obligation (an obligation which must be fulfilled to enable a due performance of the contract and on whose fulfilment the contractual partner generally relies and may rely); however, in this case our liability shall be limited to compensation for the foreseeable, typically occurring damage.
- 9.3. The limitations of liability pursuant to clause 2 shall not apply where we fraudulently concealed a defect or guaranteed the quality of the Goods. The same shall apply to claims of the Buyer pursuant to the German Product Liability Act (*Produkthaftungsgesetz, ProdHaftG*).
- 9.4. The Buyer is only entitled to a withdrawal or termination due to a breach of duty which is not based on a defect if we are responsible for the breach of duty. A right of the Buyer to terminate the contract for convenience (in particular pursuant to Secs. 651, 649 BGB) shall be excluded. In all other respects, the statutory requirements and legal consequences shall apply.
- 9.5. The Buyer is obliged to observe any and all applicable technical and other protective regulations as well as operating manuals and instructions for use when using the Goods.

10 LIMITATION OF CLAIMS

- 10.1. The applicable statutory limitation period shall apply.
- 10.2. Additional Warranty conditions agreed in the particular case remain unaffected.

11 PARTIAL INVALIDITY AND ASSIGNABILITY

- 11.1. Should individual provisions of this Agreement with the Buyer including these Delivery Terms be or become invalid, either in part or in full, this shall not affect the validity of the remaining provisions. Invalid parts shall be replaced by valid ones which come as close as possible to the original purpose.

GENERAL TERMS AND CONDITIONS

11.2. The Buyer is not entitled to assign the Agreement or rights under the Agreement to third parties without our prior written consent. Sec. 354a HGB shall remain unaffected.

12 CHOICE OF LAW AND PLACE OF JURISDICTION

12.1. These Delivery Terms and all legal relationships between us and the Buyer shall be governed by the laws of the Federal Republic of Germany, under exclusion of international uniform law, in particular of the UN Convention on Contracts for the International Sale of Goods. The preconditions and effects of the retention of title pursuant to Sec. 7 are subject to the law applicable at the respective place where the object is stored if the agreed choice of German law is inadmissible or ineffective under that law.

12.2. If the Buyer is a merchant within the meaning of the HGB, a legal entity under public law or a special fund under public law, exclusive - and also international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our place of business in Munich. We shall nevertheless have the right to file an action at the general place of jurisdiction of the Buyer.