

# General terms and conditions

## § 1 Scope of Terms

Our goods deliveries, services and offers are all made solely on the basis of these terms of sale. Our terms of sale shall be regarded as accepted with acceptance of the goods or services at the latest. Our terms of sale also apply to all future business transactions, even if they are not again explicitly agreed to in the future. We do not recognize any terms of the buyer contradicting or deviating from our own terms of sale. Our terms of sale shall apply even if we make delivery without reservation, in the knowledge of contradictory or deviating terms of the customer.

## § 2 Offers and Conclusion of Contract

With the placement of an order, the customer makes a binding declaration of intent to purchase the goods in question. Orders and assignments, if they are to be valid, require our written confirmation, which we shall be entitled to declare within a period of 2 weeks. Alternatively, acceptance may be made by means of delivery of the goods. Drawings, illustrations, dimensions, weights and other performance data shall only be binding if this has been explicitly agreed to in writing. We reserve the right to make technical alterations or alterations in form, colour or weight, provided such alterations remain within the bounds of what is reasonable. All significant agreements relating to an order are contained in our confirmation of order or in these terms of sale. Our employees are not authorized to make oral ancillary agreements or to give verbal assurances extending beyond the contents of the written agreement.

## § 3 Prices

- (1) The prices contained in our offers are binding for a period of 30 days, as from the day of the offer; otherwise the prices indicated in the confirmation of order shall apply.
- (2) The statutory VAT is not included in our prices; this will be indicated on the invoice at the statutory amount applicable on the date of the invoice.
- (3) Unless otherwise explicitly agreed to in writing, the prices indicated shall apply ex Hamburg. The forwarding and packaging costs shall be borne by the buyer and will be separately charged. In the case of inland orders for merchandise worth more than EUR 500 (before VAT), we shall meet the freight and packaging costs; the same shall apply for deliveries to other European countries where the value of the goods exceeds EUR 1,000 (before VAT). Exceptions to carriage-paid goods are made for heavy goods, e.g. paperboard, glues, stitching wire, metals, metal rails and machines. Additional costs for express goods shall always be borne by the buyer.

## § 4 Period of Delivery

- (1) Delivery dates and delivery deadlines are only valid if agreed to in writing. The start of the delivery period specified by us presupposes that all technical questions have been clarified, as well as the timely and proper performance of all obligations by the customer.
- (2) If the customer defaults in acceptance of the goods, he/she/it shall be responsible for, and shall bear or reimburse, any consequential damage incurred, including excess expenditure. Further-reaching claims of ours shall remain unaffected.
- (3) Even in cases of binding delivery dates, we shall not be liable for delays in delivery or performance due to force majeure or to other events that make such delivery significantly more difficult or even impossible for more than a brief period only, even should such delay be due to our suppliers. In such cases we shall be entitled to extend the delivery period by the period of the delay if reasonable, or to withdraw from the outstanding part of the contract, whether fully or partially. If the delivery period is extended in this way or if we withdraw from an outstanding part of the contract, this shall not constitute grounds for claims to compensation for damages on the part of the buyer. If the delay continues for longer than a month, the buyer shall be entitled, after the expiry of a period of grace, to withdraw from that part of the contract not yet fulfilled.
- (4) In the event of default on delivery, we shall be liable in accordance with the statutory provisions, provided the delay is due to a deliberate act of malintent or to gross negligence on our part. If the delay in delivery is not due to gross negligence on our part, or to a deliberate act of malintent on our part, we shall be liable to make lump-sum payments of 5% of the net value of the delivery for each full week of delay, though such payments shall not exceed 0.5% of the net overall value of the delivery affected by the delay. This shall also apply in the event of delay in delivery due to culpable violation of an essential contract obligation.

## § 5 Payment

- (1) Our invoices are payable within 30 days of the invoice date, without deduction. Deductions made for premature payment are only permissible if explicitly agreed to in writing.
- (2) Payment shall not have been made until we are in a position to dispose of the amount in question. Payment by cheque is only permissible subject to prior agreement. In such cases payment shall not have been made until the cheque has been cashed. Any associated costs shall be borne by the buyer.
- (3) We are entitled to set payments off against older claims first. Where costs and interest have been incurred, we are entitled to set off payments received against the costs first, then the interest and finally against the main claim.
- (4) The buyer shall only be entitled to offset or retain payments if the counterclaim has been legally established, is undisputed or is recognized by us. The customer shall only be entitled to exercise right of retention if his counterclaim relates to the same contractual relationship.
- (5) If payment by instalments has been agreed and if the buyer defaults on an instalment for a period of longer than two months, the entire amount shall become due immediately, plus the statutory rate of interest, without any notice being required.

## § 6 Passing of Risk

- (1) The place of performance is Hamburg, except where some other arrangement has been stipulated in the confirmation of order.
- (2) The risk shall pass to the buyer as soon as the consignment is handed over to the person carrying out the transport, or as soon as the shipment leaves our stores. This shall also apply in the case of carriage-free deliveries. At the customer's request we will arrange a transport insurance for the consignment at the cost of the buyer.
- (3) In the event of default in acceptance or violation by the customer of the duty to cooperate, the risk of accidental loss or of deterioration of the goods shall pass to the customer at as the time of default in acceptance or default of the debtor.

## § 7 Warranty Against Defects

- (1) In cases of defects the customer has the choice between subsequent improvement and replacement. Return of goods must be agreed with us in advance. Otherwise we have the right to refuse to accept returned goods. In cases of correction of defects we shall bear the necessary costs of such correction, to the extent that these costs are not increased by the transfer of the goods to another location than that of the place of performance.
- (2) If subsequent performance fails to provide a solution after the second attempt, the customer shall be entitled to choose between reduction of the purchase price or annulment of the contract.
- (3) The prerequisite for claims relating to defects is observance of the examination and complaint obligations in accordance with section § 377 of HGB [German Commercial Code], especially the requirement that the customer must notify us of any obvious defects in writing within 2 weeks of receipt of the goods; otherwise the right to warranty claims is excluded.
- (4) The buyer shall have no claims based on defects if alterations have been made to our products, or if parts have been exchanged or non-durable components have been replaced and these parts or components do not correspond to the specifications, or if operating or servicing instructions have not been complied with. Liability for normal wear and tear is excluded.
- (5) The limitation period for warranty claims is twelve months, as from the date of passing of risk.
- (6) Claims for compensation due to culpable, but not deliberate, violation of one or more essential contractual obligation(s) or to gross negligence, even on the part of one of our representatives or agents, shall be limited to the foreseeable or typical damage occurring in such circumstances. Liability for culpable damage to life and limb, or to bodily health and compulsory liability in accordance with the product liability law, shall remain unaffected.
- (7) If the terms of sale contain no other regulations, liability on our part is excluded.

## § 8 Reservation of Ownership

- (1) We shall retain the ownership of the purchase property until payment has been made in full for all claims arising from the ongoing business relationship.
- (2) The customer is obliged to treat the purchase property with care, insuring it at new value against damage from fire, water and theft and – where required – undertaking maintenance and inspection work at his/her/its own cost.
- (3) The customer is obliged to inform us immediately in writing of any damage suffered by the goods, as well as of any pledging of the goods to third parties, or any other attachment or access by third parties and must notify any such third party of our ownership. The customer is also required to notify us in writing of any change of hands of the goods, as well as of any change of address by the customer himself/herself/itself.
- (4) In the event of a breach of contract by the customer, especially relating to default on payment or to violation of any of the duties and obligations referred to in the previous two paragraphs, we shall be entitled to rescind the contract and to demand the return of the purchase goods. Following such return of the purchase goods, we shall be authorized to exploit these commercially; the revenues for any such sale of goods shall be offset against the customer's outstanding liabilities – less appropriate deductions for such commercialization.
- (5) The buyer shall be entitled to further process the goods, taking the care of a prudent businessman, or to resell them. The customer assigns to us at this time all claims to the goods, to the amount of our respective gross invoice amounts, due to him/her/it as arising from the resale or vis-à-vis third parties, whether the purchase property has been resold after or without subsequent processing. We accept the assignment. Even after this assignment the buyer shall still be authorized to collect such claims. Our authority to collect such claims ourselves shall nevertheless remain unaffected. We hereby waive our right to such collection of claims for as long as the buyer meets his/her/its payment obligations towards us from the recovered revenues, does not default on payment and does not apply for the initiation of settlement or insolvency proceedings, or suspend payments. In any of the above-mentioned cases the buyer must inform us in writing of the assigned claims and his/her/its own debts and all other factors required for the collection purposes, and must provide us with all documents needed, informing the debtor of the assignment.
- (6) Any finishing work or processing is undertaken on our behalf, as the manufacturer, though without any additional obligations. If, as a result of combination, our property as such ceases to exist, the property of the buyer shall be assigned to us to the proportionate value of the individual property, as corresponding to the invoice amount; this shall also apply in the case of mixing. The goods resulting from processing shall furthermore be subject to the same regulations as the purchase goods delivered by us subject to retention of ownership.
- (7) Security held by us will be released, at the request of the customer, to the extent that this exceeds the value of our outstanding, secured claims by more than 10 per cent. In this case we shall have the right to decide which security to release.

## § 9 Restriction on Liability

Claims to compensation, e.g. as arising from violation of obligations, wrongful default (culpa in contrahendo) or claims associated with a civil or criminal offence, shall, where no other regulations have been agreed to in connection with the individual case or specified in the terms of sale, be excluded, regardless of the legal nature of the claim, provided neither malintent nor gross negligence is involved. This shall also apply to the dealings of our executing aides and vicarious agents. The regulation holds, moreover, for cases in which, instead of compensation, reimbursement is requested for expenditure made in vain. Liability for culpable damage to life and limb, or to bodily health, and compulsory liability in accordance with the product liability law or with explicit regulations contained in these terms of sale, shall remain unaffected.

## § 10 Applicable Law, Place of Jurisdiction, Partial Invalidity

- (1) Our terms of sale shall apply only with respect to companies in terms of section § 310 I of BGB (German Civil Code), i.e. natural persons, corporate bodies or legally capable partnerships or unincorporated firms engaging professionally in commercial or self-employed activities. As regards consumers, the statutory regulations shall apply.
- (2) Our terms of sale and the entire legal relationship shall be subject to the law of the Federal Republic of Germany. Application of UN purchase law is excluded.
- (3) If the buyer is a full trader, a public-law body or constitutes public special assets, Hamburg shall be the sole place of jurisdiction for all disputes arising from this contract, whether directly or indirectly. This shall also apply if the customer has no general place of jurisdiction within Germany, or if the place or residence and customary abode are unknown at the time of initiation of court proceedings.
- (4) Should one of the provisions contained in these terms of business or within the framework of other agreements prove to be invalid, whether at present or at some future date, this shall not affect the validity of all of the other conditions or agreements. The wholly or partially invalid regulation shall be replaced by a regulation that most closely corresponds to the economic intentions of the invalid regulation.

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