

## Article 1

### General information - Area of applicability

- (1) Our conditions of sale apply exclusively; we do not recognise contradictory conditions of the customer or conditions deviating from our conditions of sale, unless we would have expressly consented to their applicability in writing. Our conditions of sale also apply if carry out delivery to the customer without reservation while fully aware of contradictory conditions of the customer or conditions deviating from our conditions of sale.
- (2) Individual agreements made with the customers in individual cases (including collateral agreements, supplements and admendments) shall take precedence over our terms of conditions of sale. Subject to proof to the contrary, the content of such agreements shall be governed by a written contract or written confirmation.
- (3) Declarations and notifications to be given to us by the customer after conclusion of the contract (e.g. setting deadlines, notifications of defects, declarations of withdrawal or reduction) must be made in text or written form in order to be effective.
- (4) Our conditions of sale apply only towards enterprisers as defined in Article 310, para. 1 of German Civil Code.
- (5) Our conditions of sale also apply for all future transactions with the customer.

## Article 2

### Offers - Offer documents

- (1) Our offer is subject to confirmation unless otherwise stated in the order confirmation. The order signed by the customer is a binding offer. We are entitled to accept this offer within two weeks by sending an order confirmation or to send the ordered goods to the customer within this period. We reserve the right to notify the customer during this period that we decline their order.
- (2) We retain the title and copyrights to figures, drawings, calculations and other documentation. This also applies to such written documents which are identified as 'confidential'. The customer must obtain our express written approval prior to transfer of said documents to third parties.

## Article 3

### Prices - Payment conditions

- (1) Unless otherwise indicated in the order confirmation, our prices apply 'ex works', excluding packaging, freight and shipping costs; they are billed separately.
- (2) We reserve the right to change our prices accordingly if cost increases occur after conclusion of the contract, in particular due to collective wage agreements or material prices. We shall be obliged to proceed in the same way in the event of cost reductions. We shall prove both cost reductions and cost increases to the customer upon request as soon as and to the extent that they have occurred and shall take them into account in the event of cost increases and cost reductions.
- (3) The statutorily defined value-added tax is not included in our prices; it is listed separately in the invoice at the applicable statutorily defined amount on the invoice date.
- (4) The deduction of a discount requires a special written agreement.
- (5) Unless otherwise stated in the order confirmation, the net purchase price (without deduction) is due for payment within 14 days of the invoice date. The statutory regulations Concerning the consequences of default in payment shall apply.
- (6) The customer is only entitled to offsetting rights if their counterclaims have been determined to be legally valid, are undisputed or are recognized by us. Moreover, the customer is authorised in this respect to exercise a right of retention as a counterclaim based on the same contractual relationship.
- (7) If the customer fails to pay due invoices, exceeds a payment deadline or if the customer's financial circumstances deteriorate, we shall be entitled to declare the entire remaining debt of the customer due and payable and to make advance payments or provide security, modifying the agreements made, or immediate payment of all our claims on the same legal relationship after delivery has been effected.

## Article 4

### Delivery period

- (1) The beginning of the delivery period specified by us is subject to prior clarification of all technical questions.

- (2) Observance of our delivery obligation is also subject to the timely and proper fulfilment of the duties of the customer, particularly the customer's provision of documents, permits and approvals to be procured by the customer. The right to object to an unfulfilled contract is reserved.
- (3) If the customer enters into default of acceptance or culpably breaches other duties of cooperation, we are entitled to demand compensation for the resulting damages, including any additional expenditure. Further claims or rights are reserved.
- (4) Insofar as the conditions of paragraph (3) are fulfilled, the risk of accidental loss or accidental worsening of the purchase item transfers to the customer at the time at which they enter into default of acceptance or payment.
- (5) Periods or dates of deliveries or services promised by us are always only approximate, unless a fixed period or date has been expressly promised or agreed. If shipment has been agreed, delivery periods and delivery dates shall refer to the time of Handover to the forwarding agent, carrier or other third party commissioned with the transport.
- (6) Irrespective of the customer's right arising default, we may demand from the customer an extension of delivery and performance periods or a postponement of delivery and performance dates by the period in which the customer fails to meet his contractual obligations towards us.
- (7) We shall not be liable for the impossibility of delivery or for delays in delivery insofar as these are caused by force majeure or other events not foreseeable at the time of conclusion of the contract (e.g. operational disruptions of any kind, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, lack of manpower, energy, or raw materials, difficulties in procuring the necessary official permits, official measures or the failure to deliver, incorrectly or not on time by the suppliers) for which we are not responsible. Insofar as such events make the delivery or service for us considerably more difficult or impossible and the hindrance is not only of temporary duration, we shall be entitled to withdraw from the contract. In the event of hindrances of temporary nature, the delivery or service periods shall be extended or the delivery or service dates postponed by the period of the hindrance plus a reasonable start-up period. If the customer cannot reasonably be expected to accept the delivery or service as a result of the delay, he may withdraw from the contract by immediate written declaration to us.
- (8) We are only entitled to make partial deliveries if the partial delivery is usable for the customer in the scope of the contractual intended purpose, delivery of the remaining ordered goods is guaranteed and no considerable additional expenses or costs arise for the customer as a result (unless we declare our readiness to assume these costs).
- (9) We are liable in accordance with the statutory provisions, as well as the basic purchase contract is a forward deal as defined in Article 286, para. 2, no. 4 of German Civil Code or Article 376 of German Commercial Code. We are also liable in accordance with the statutory provisions insofar as the customer is entitled to assert that they no longer have any interest in further contractual fulfilment as a consequence of a delivery default for which we are responsible.
- (10) Furthermore, we are liable in accordance with the statutory provisions, insofar as the delivery default is based on an intentional or grossly negligent breach of contract for which we are responsible; we are responsible for the culpability of our representatives or vicarious agents. Insofar as the delivery default is based on a grossly negligent breach of contract for which we are responsible, our liability for damages is limited to the foreseeable, typically occurring damages.
- (11) We are also liable in accordance with the statutory provisions insofar as the delivery default for which we are responsible is based on a culpable breach of a cardinal contractual duty; however, in this case, the liability for damages is limited to the foreseeable, typically occurring damages.
- (12) The customer reserves the right to further statutory claims and rights.

## Article 5

### Transfer of risk - Packaging costs

- (1) Unless indicated otherwise in the order confirmation, delivery 'ex works' is agreed.
- (2) If desired by the customer, the delivery is covered by transport insurance and the costs accruing in this connection shall be borne by the customer.

## **Article 6** **Liability for defects**

- (1) The customer's defect rights require that they have properly fulfilled their obligations with respect to inspection and reporting in accordance with Article 377 of German Commercial Code.
- (2) Insofar as there are defects of the item of purchase, we are entitled, according to our discretion, to provide subsequent fulfilment in the form of rectification of defects or the delivery of a new item free from defects. In the case of subsequent fulfilment, we bear the necessary expenses only up to the amount of the purchase price.
- (3) If the subsequent fulfilment is unsuccessful, the customer shall have the right to withdrawal or to demand a reduction in price, according to their discretion.
- (4) We are liable in accordance with the statutory provisions, insofar as the customer asserts damage claims based on intent or gross negligence, including intent or gross negligence of our representatives or vicarious agents. Insofar as there has been no intentional breach of contract, the liability for damages is limited to the foreseeable, typically occurring damages.
- (5) We are also liable in accordance with the statutory provisions insofar as we culpably breach a cardinal contractual duty; however, in this case, the liability for damages is limited to the foreseeable, typically occurring damages.
- (6) Insofar as the customer is entitled to a claim for compensation for damages instead of the performance due to a negligent breach of duty, our liability is limited to compensation for the foreseeable, typically occurring damages.
- (7) The liability due to a culpable injury to the life, limb or health remains unaffected; this applies also to statutorily mandated liability in accordance with the German Product Liability Act.
- (8) Insofar as nothing different is deviating above, the liability is excluded.
- (9) The period of limitation for claims for defects is twentyfour months, calculated from the time of the transfer of risk. This does not apply insofar as the contract relates to the sale of an item which is normally used for a structure and has caused the relevant defects.
- (10) The limitation period in case of delivery recourse according to §§ 445 b, 478 para.2 of German Civil Code remains unaffected, it is five years, calculated from the delivery of the defective item.

## **Article 7** **Joint liability**

- (1) Liability for damages exceeding the stipulations of Article 6 is - without consideration of the legal nature of the asserted claim - excluded. This applies particularly to damage claims from culpability on conclusion of contract, due to other breaches of duty or due to claims for damages based on tortious liability in accordance with Article 823 of German Civil Code.
- (2) The limitation in accordance with section (1) also applies insofar as the customer demands compensation for reimbursement of futile expenses instead of a claim to compensation for damages.
- (3) Insofar as our liability for damages is excluded or limited, this also applies in regard to the personal liability for damages of our staff, employees, representatives and vicarious agents.

## **Article 8** **Reservation of proprietary rights**

- (1) We retain ownership of the purchase item until the receipt of all payments from the commercial relationship.  
In the event of conduct of the customer in breach of contract, particularly default of payment, we are entitled to seize the purchase item.  
We are entitled to withdraw from the contract when seizing the purchase item. After seizing the purchase item, we are entitled to the proceeds of sale, which shall be offset against the liabilities of the customer - minus reasonable expenses related to the sale.
- (2) The customer is obligated to handle the purchase item with care; in particular, they are obligated to insure said item at their own expense against damages from fire, water and theft with coverage up to the value of the new item.
- (3) Insofar as maintenance and inspection work are necessary, the customer must perform said work at their own expense.
- (4) In case of pledging as security or other intervention by third parties, the customer must notify us immediately so that we can file suit in accordance with Article 771 of the German Code of Civil Procedure. Insofar as the third party is unable to compensate us for the judicial and extrajudicial expenses

of a legal suit in accordance with Article 771 of the German Code of Civil Procedure, the customer is liable for the losses incurred by us.

- (5) The customer is entitled to sell the purchase item in the ordinary course of business; however, they hereby assign us all claims in the amount of the final invoice total (including statutorily prescribed VAT) of our claim, which he acquires on the basis of the resale against his recipients or third parties, regardless of whether the purchase item has been sold with or without additional processing. The customer also reserves the right to collect this claim after assignment. Our authority to collect the claims ourselves remains unaffected. However, we are obligated to refrain from collecting the claims as long as the customer fulfils their payment obligation from the collected proceeds, has not entered into default of payment and, in particular, no petition has been filed for the initiation of settlement or insolvency proceedings or no payments have been suspended. However, if this is the case, we can demand that the customer informs us about assigned claims and their debtors, provides all information necessary for collection, hands over the corresponding documentation and notifies the debtors (third parties) of the assignment.
- (6) The processing or alteration of the purchase item by the customer always takes place on our behalf. If the purchase item is processed with other items not belonging to us, we acquire co-ownership of the new item proportional to the value of the purchase item (final invoice amount, including statutorily-prescribed VAT) in relation to the value of the other processed items at the time of the processing.
- (7) If the purchase item is inseparably combined with other items not belonging to us, we acquire co-ownership of the new item proportional to the value of the purchase item (final invoice amount, including statutorily-prescribed VAT) to in relation to the value of the other combined items at the time of the combination. If the combination takes place in a manner such that the item of the customer should be considered the main item, it applies as agreed that the customer assigns us proportional co-ownership.
- (8) The customer also assigns us the claims which arise with the combination of the purchase item with property of a third party as security for our claims against the customer.
- (9) At the customer's request, we are obligated to release the securities insofar as the realisable value of our securities exceeds the claims to be secured by more than 10 %; we are entitled to choose which securities to release.

## **Article 9** **Jurisdiction - Place of fulfilment**

- (1) Insofar as the customer is an entrepreneur, the location of our registered office is the jurisdiction; however, we are entitled to file suit against the customer in the court of jurisdiction for his place of residence.
- (2) The law of the Federal Republic of Germany applies. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980(CISG) shall not apply.
- (3) Unless indicated otherwise in the order confirmation, the location of our registered office is the place of fulfilment.

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