

**General Terms and Conditions****§ 1 Scope of Application**

- (1) These conditions of sale apply exclusively to entrepreneurs, legal entities of public law or special funds under public law according to § 310, section 1 of the German Civil Code (BGB). Purchaser's terms and conditions which are contrary to or deviate from our conditions of sale are only accepted by us, if we expressly agree in writing to their validity.
- (2) These conditions of sale also apply to all future transactions with the Purchaser, as far as these are legal transactions of a related nature.

**§ 2 Documents Provided, Software**

We reserve the property rights and copyrights to all documents such as e.g., calculations, drawings, illustrations, performance data, etc. - also in electronic form - provided to the Purchaser in relation to the order placement. These documents may be made accessible to third parties only, if we give the Purchaser our express consent in writing. If we do not accept the Purchaser's offer within the period of § 2, these documents must be returned to us without delay. The reservation of property rights and copyrights also applies to all software programs which are included in the goods or accompany them.

**§ 3 Prices and Payment**

- (1) Unless otherwise agreed in writing, our prices are ex works excluding packaging and plus VAT at the applicable rate. Costs of packaging are invoiced separately.
- (2) The purchase price is to be paid exclusively to the account specified by us in the contract or order confirmation.
- (3) Unless otherwise agreed, the purchase price will be paid before delivery. Default interest will be charged at a rate of 8 % above the respective base interest rate p.a. We reserve the right to claim a higher damage caused by default.
- (4) Unless a fixed price agreement has been made, we reserve the right to reasonable price modifications due to changes in wage, material and distribution costs for deliveries that take place 3 months or later upon contract conclusion.

**§ 4 Rights of Retention**

The Purchaser is only entitled to exercise a right of retention as far as his counterclaim is based on the same contractual relationship.

**§ 5 Delivery Time, Transport**

- (1) Delivery times are considered agreed only upon express written confirmation. They start as from the date of our order confirmation unless a delivery date has been expressly confirmed. The delivery deadline is considered met with the timely notification of readiness for dispatch, if the delayed delivery of the goods is beyond our fault and responsibility. The start date of the delivery period stated by us is subject to the timely and proper fulfilment of the Purchaser's obligations. Without prejudice to our rights resulting from delays, deadlines and dates are extended by the period of time during which the Purchaser fails to fulfil his obligations towards us. We reserve the right to plead non-performance of the contract.
- (2) If the Purchaser has come in default of acceptance or culpably violates other duties of cooperation, we are entitled to demand compensation for the damages incurred in this respect, including any additional expenses. We reserve the right to assert further claims. If the above conditions are true, the risk of accidental loss or accidental deterioration of the sales item will pass to the Purchaser at the point in time at which he has got in default of acceptance or default of the debtor.
- (3) The Purchaser must directly notify the forwarding agent (with a copy to us) of any transport damage within the special deadlines defined for this purpose. In the event of a delay in delivery caused by our slight negligence, we are only liable for max. 5% of the purchase price.
- (4) Further legal claims and rights of the Purchaser relating to a delay in delivery remain unaffected.

**§ 6 Transfer of Risk upon Shipment**

If the goods are shipped to the Purchaser at his request, the risk of accidental loss or accidental deterioration of the goods passes to the Purchaser at the moment of dispatch, at the latest at the moment the goods leave the factory/warehouse. This applies irrespective of whether the goods are dispatched from the place of performance or who bears the freight costs.

**§ 7 Compliance with Statutory Provisions, Use**

- (1) Unless otherwise agreed in individual cases, the Purchaser is responsible for compliance with statutory and official regulations on import, transport, storage and use of the goods.
- (2) Details and information provided by us regarding the suitability and use of the goods do not exempt the Purchaser from executing his own tests and trials. The Purchaser is solely responsible for the use of the goods.

**§ 8 Reservation of Title**

- (1) We reserve title to the delivered item until all claims, irrespective of the legal reasons for which they have arisen from the underlying legal relationship, have been fully paid. This also applies to all future deliveries, even if we do not always expressly refer to it. In the event that the Purchaser violates the contract, we are entitled to request the return of the item of sale.
- (2) As long as ownership has not yet passed to the Purchaser, he is obliged to treat the item of sale with care. In particular, he is obliged to insure it adequately at his own expense against theft, fire and water damage at its value as new. If maintenance and inspection work has to be executed, the Purchaser carries it out in good time at his own expense. As long as ownership has not yet been transferred, the Purchaser must inform us immediately in writing if the delivered item is impounded or exposed to other third-party-interventions. Insofar as the third party is not in a position to reimburse us for the court and out-of-court fees of an action in accordance with § 771 of the German Code of Civil Procedure (ZPO), the Purchaser is liable for the financial loss incurred by us.
- (3) The Purchaser is entitled to resell the reserved goods in the ordinary course of business after having informed us in advance. If the Purchaser defers the purchase price to his customer, he will reserve the right of ownership to the goods vis-à-vis the latter under the same conditions under which we reserved the title at the moment of delivering the goods. Otherwise, the Purchaser is not authorised to resell the goods. The Purchaser hereby assigns to us the customer's claims arising from the resale of the reserved goods in the amount of the final invoice amount agreed with us (incl. VAT). The assigned claims serve as security to the same extent as the goods themselves. The Purchaser is only entitled and authorised to resell the goods, if it is ensured that the corresponding claims are transferred to us. This assignment applies irrespective of whether the item of sale has been resold without or after processing, which is only permissible with our consent prior to the transfer of ownership. The Purchaser remains authorised to collect the claim even after the assignment. Our authority to collect the claim by ourselves remains unaffected. We, however, do not collect the claim as long as the Purchaser meets his payment obligations from the collected proceeds, as long as he is not in default of payment and, in particular, as long as no application for the opening of insolvency proceedings has been filed or payments have not been suspended.
- (4) Prior to the transfer of ownership, the Purchaser requires our consent for processing or transforming the item of sale, including the software contained in it; such processing or transformation is always carried out on our behalf. In this case, the Purchaser's expectant right to the item of sale continues in the transformed object. If the item of sale is processed with other items not belonging to us, we acquire co-ownership of the new object in the ratio of the objective value of our item of sale to the other processed objects at the time of processing. The same applies in the event of mixing. If the mixing takes place in such a way that the Purchaser's item is to be regarded as the main item, it shall be deemed to be agreed that the Purchaser already now transfers to us a proportional co-ownership and keeps the resulting sole ownership or co-ownership for us. In order to secure our claims

against the Purchaser, the Purchaser also assigns to us such claims against a third party which accrue to him as a result of the combination of the reserved goods with a property; we accept this assignment already now.

- (5) At our request, the Purchaser provides us with all necessary information on the stock of goods owned by us and on the claims assigned to us. Likewise, the Purchaser - at our request - marks the goods owned by us accordingly and informs his customers of the assigned claims.
- (6) We undertake to release the securities to which we are entitled at the Purchaser's request as far as their value exceeds the claims to be secured by more than 15%.

#### **§ 9 Warranty and Notice of Defect as well as Regress/Manufacturer's Regress**

- (1) The Purchaser's warranty rights expect the Purchaser having properly fulfilled his obligations to inspect the goods and give notice of defects in accordance with § 377 of the German Commercial Code (HGB). The rejected goods are returned for inspection in the original or equivalent professional packaging.
- (2) Claims for defects will be time-barred 12 months after we have delivered the goods to B2B Purchasers respectively 24 months upon delivery to private Purchasers. The statutory limitation period applies to claims for damages in the event of intent or gross negligence respectively in the event of injury to life, limb and health which are based on an intentional or negligent breach of duty by the user / the user's legal representative or vicarious agent. For used goods, the warranty is excluded with the exception of the claims for damages mentioned in sentence 2.
- (3) Should, despite all due care, the delivered goods be defective already at the time of the risk transfer, we will, at our discretion, either repair the goods or deliver replacement goods, subject to timely notice of defects. We always must be given the opportunity to remedy the defect within a reasonable period of time. Recourse claims remain unaffected by the above regulation without restriction.
- (4) We reserve the right to try to remedy the defect twice. If the subsequent performance either fails or is unacceptable for the Purchaser, the Purchaser may - without prejudice to any claims for damages - withdraw from the contract or reduce the remuneration.
- (5) There will be no claims for defects in the case of only insignificant deviations from the agreed quality, in the case of only insignificant impairment of usability, in the case of natural wear and tear respectively wear and tear due to having been used by the Purchase. This also applies to damages arising from incorrect or negligent handling, excessive strain, unsuitable operating resources or from particular external influences (which were not assumed from the contract) after the passing of the risk. If the Purchaser or a third party does not follow operating or maintenance instructions with regard to the goods, if changes are made to the deliveries or services, if parts are replaced, if repair work is carried out or if consumables are used which do not comply with the original specifications, any warranty shall lapse unless Purchaser provides evidence of the defect not being due to this.
- (6) Purchaser's claims for expenses incurred for the purpose of supplementary performance, in particular transport, travel, labour and material costs, are excluded insofar as the expenses increase because the goods delivered by us have retroactively been transported to a place other than the "Purchaser's delivery address", unless this transport complies with their intended use.
- (7) The Purchaser only has a right of recourse against us to such extent that he has not made any agreements with any of his customers beyond the statutory mandatory claims for defects. Furthermore, § 6 applies accordingly to the scope of the Purchaser's right of recourse against the supplier.

#### **§ 10 Liability**

- (1) In the event of a breach of duty, defective delivery or tortious act, we are liable for damages and reimbursement of expenses - subject to further contractual or statutory liability requirements - only in the event of intent, gross negligence and at least slightly negligent violation of important contractual obligations (contractual obligation

the breach of which jeopardises the achievement of the contractual purpose). If important contractual obligations are violated due to ordinary negligence, our liability is, however, limited to compensation for typical, foreseeable damages. In the event of a breach of non-essential contractual obligations due to ordinary or average negligence, our liability is excluded.

- (2) The a.m. limitations of liability do not apply if the user has guaranteed a particular quality of the good according to § 444 BGB (German Civil Code) by means of an express declaration (user declares that the item of sale features a specific quality at the time of risk transfer and that the user is liable for all consequences of this missing quality irrespective of fault). Moreover, the a.m. limitations of liability are not applicable to damages resulting from injury to life, limb or health.

#### **§ 11 Others**

- (1) This contract and the entire legal relationship between the parties are governed by the laws of the Federal Republic of Germany; excluded is the UN Convention on Contracts for the International Sale of Goods (CISG).
- (2) Unless otherwise stipulated in the order confirmation, our registered office is the place of performance and exclusive place of jurisdiction for all disputes arising from this contract.
- (3) The Purchaser may only offset our claims with undisputed or legally established counterclaims.
- (4) If these General Terms and Conditions of Sale are made available to the Purchaser in a language other than the contractual language, this is only done to facilitate understanding. In the event of different interpretations, the text in the contractual language prevails.
- (5) All agreements made between the parties for the purpose of contract execution are set out in writing in this contract.
- (6) Should individual clauses of these terms and conditions be totally / partially invalid or void, this shall not affect the validity of the remaining clauses or the remaining parts of such clauses.