

GENERAL TERMS OF SALE AND DELIVERY / GENERAL TERMS OF REPAIR

1. Scope, German law

- 1.1 Insofar as we have not expressly authorised other conditions in writing, solely these General Terms of Sale and Delivery / General Terms of Repair apply to our deliveries or services (hereinafter: "**General Terms of Sale and Delivery**"). Our General Terms of Sale and Delivery shall also apply even then if we unreservedly deliver the goods or unreservedly accept the order/the commission after becoming aware of the Buyer's or the Principal's conditions that are contrary to our General Terms of Sale and Delivery.
- 1.2 Our General Terms of Sale and Delivery only apply if the Buyer or Principal is an entrepreneur (Art. 14 BGB – *German Civil Code*), a legal person under public law or a public special fund.
- 1.3 Our General Terms of Sale and Delivery also apply to all future contracts entered into with the Buyer or the Principal and without this necessitating that we refer to them again in each individual case.
- 1.4 Individual agreements and variations reached in the individual case shall take precedence over these General Terms of Sale and Delivery. The contents of such agreements and variations are in every case contingent upon a written contract or our written confirmation. Confirmed variations apply, in each case, to the specific individual case without effects for the future.
- 1.5 It is deemed agreed that German law applies. Application of United Nations Convention on Contracts for the International Sale of Goods is excluded.

2. Conclusion of contract

- 2.1 Our offers are subject to change without notice unless we have expressly described them as binding in writing.
- 2.2 The order or assignment is a legally-binding offer for the conclusion of a contract.
- 2.3 The Buyer's or Principal's offer shall be accepted by way of our confirmation of order. Orders shall be confirmed within 14 calendar days following receipt of the order or assignment. The contents of the order confirmation are decisive for the contents of the contract. The contract shall be founded on said contents if the Buyer or Principal does not object immediately.

3. Delay

- 3.1 Adherence to agreed periods and dates for the delivery of ordered goods is conditional on timely receipt of all documents, necessary licenses and clearances that are to be made available by the Buyer, and the provision in good time of all required information and compliance with the agreed payment conditions and other obligations on the part of the Buyer. If these prerequisites are not honoured in good time, the periods shall be extended accordingly. This does not apply if we are responsible for such delays.
- 3.2 If the failure to meet the periods is attributable to force majeure or other occurrences unforeseeable at contract conclusion (e.g. strike, operating disruptions, unpunctual own supply, transport delays, adverse weather conditions etc.), then such periods shall be extended by the duration of the temporary hindrance in respect of performance, for which we are not responsible.
- 3.3 Damage compensation claims due to impossibility to deliver or perform or due to delivery delays shall be limited in accordance with the regulations in 7.4 and 7.5 or 9.3 and 9.4 of these General Terms of Delivery and Sale.

4. Shipping and passing of risk

- 4.1 Unless agreed otherwise, the goods are delivered ex-works (Incoterms 2000). In every case goods shall be shipped, loaded and transported at the Buyer's cost and risk. Unless otherwise agreed, we are free to choose the shipping route, shipping mode and the packaging. At the Buyer's cost and request, we shall insure deliveries to cover customary transport risks.
- 4.2 Risk shall pass to the Buyer at that point in time at which the goods are handed over to the Buyer himself or, in the case of shipment, to the freight carrier. Insofar as an installation of the goods is agreed in an individual case, risk shall pass upon acceptance.

5. Prices and terms of payment

- 5.1 The prices are understood as ex works (Incoterms 2000) plus the respective valid statutory value added tax, freight, packaging costs, postage, insurance and other shipment costs.
- 5.2 In the absence of agreements to the contrary, invoice amounts shall fall due for payment within 14 calendar days without deductions following receipt of invoice.
- 5.3 The Buyer or Principal is in default with expiry of the due payment date stated in 5.2. If the Buyer or Principal is in default, we are entitled to demand default interest of eight (8) percentage points over the basic lending rate. Our claim to the commercial maturity interest (Art. 353 HGB – *German Commercial Code*) remains unaffected. The assertion of further damage is not excluded.
- 5.4 The Buyer shall only be entitled to retain payments or set off by way of counterclaims insofar as its counterclaims are undisputed or have become res judicata.

6. Reservation of title

- 6.1 The goods we deliver shall remain our property until payment in full of all claims to which we are entitled against the Buyer resulting from the business association.
- 6.2 The Buyer undertakes to insure the goods at replacement value at its own cost against damage by fire, water and against theft.
- 6.3 The Buyer is entitled to resell the reserved goods during the course of ordinary business operations. The Buyer's claims resulting from the sale of the reserved goods (including other claims such as insurance claims from tortious acts in the case of loss or destruction) are hereby assigned to us at this point in time as security. We hereby accept the assignment. The Buyer shall be entitled to collect the assigned claims as long as it honours its payment obligations. In the event of default in payment on the part of the Buyer, we shall be entitled to withdraw the authorisation to collect. In such a case the Buyer shall, at our request, undertake to provide us with all the information required to collect, and to permit a review of the existence of the assigned claims by way of an authorised representative on the basis of its accounting, and to inform the debtors of the assignment.
- 6.4 If the Buyer processes the goods, then it is agreed that this processing is done in our name and for our account as manufacturer and we directly acquire ownership. If our ownership expires as a result of blending, mixing or processing, and if the Buyer becomes the owner of the delivered item, the Buyer transfers ownership to us in advance a co-ownership share of the item created by way of the blending, which corresponds with the proportionate value of our delivery item. We hereby accept the offer of assignment. The hand-over shall be replaced by the gratuitous storage.
- 6.5 The Buyer is to inform us without delay of third-party access to our property, and take appropriate legal steps against such action of its own volition, following consultation with us and at its own cost.
- 6.6 In the event of default in payment on the part of the Buyer, the filing of an application for the institution of insolvency proceedings regarding the Buyer's assets, the transfer of the expectant right or the transfer of the Buyer's business enterprise to a third party, we shall be entitled in accordance with the statutory provisions to withdraw from the contract and to demand back the delivered goods and to that end gain access to the Buyer's business premises. After withdrawing from the contract, we shall be entitled to freely realise the reserved goods. The realisation proceeds are to be credited to the Buyer's liabilities (less appropriate realisation costs).
- 6.7 Insofar as the value of the securities to which we are entitled from the reservation of title exceeds the value of our claims by more than 10%, we shall release the securities – at our discretion – in an appropriate amount. We shall select the securities to be released at our own discretion.

7. Notification of defects and warranty

- 7.1 The Buyer is to inspect the received goods without delay following arrival in respect of defects. The Buyer is to inform us in writing of obvious defects without delay, at the latest within ten (10) working days (Monday to Friday) following receipt of the delivery, and inform us in writing of hidden defects within seven (7) working days once such defects have been identified. Otherwise the delivery shall be deemed approved.
- 7.2 The Buyer is to give us the opportunity to review the complaint, in particular to make available to us for inspection damaged goods and the respective packaging. On our demand, complained goods must be sent back to us freight-paid. We refund the costs for the most favourable shipment route if the defect complaint is justified; however, this does not apply if the goods are located at a place other than the place of their intended use.
- 7.3 If the Buyer requests subsequent performance regarding a defect, we may decide whether we shall rectify the defect or provide fault-free goods as a replacement. If subsequent performance or replacement delivery is not possible, or is rejected or is not carried out or fails for other reasons for which we are not responsible within a period of reasonable length specified by the Buyer, the Buyer may, at its own discretion, withdraw from the contract or abate the purchase price. A period need not be set in cases in which this is not required by law.
- 7.4 Further-reaching claims on the part of the Buyer, in particular claims for damages instead of performance compensation for other direct or indirect damage – including attendant or consequential damage on the basis of whichever legal grounds – are excluded. This shall not apply if
 - 7.4.1 we have maliciously concealed a defect in title or material defect or if we have given a guarantee that the goods are free of such defects or a guarantee regarding the quality of the goods;
 - 7.4.2 the damage is based on intent or gross negligence on our part, one of our legal representatives or vicarious agents or a negligent violation of key contractual obligations by us or these persons; key contractual obligations are understood as such obligations which must be fulfilled in order that the contract can be duly executed at all and which the contract partner usually trusts and may trust are observed;
 - 7.4.3 a culpable violation of an obligation by us, our legal representatives or vicarious agents has resulted in physical injury or damage to health;
 - 7.4.4 liability applies in accordance with the German Product Liability Act. However, in the event of basic negligence, our obligation to provide compensation shall be restricted in terms of amount to typical contractual and foreseeable damage.
- 7.5 The provisions in accordance with paragraph 7.4 apply accordingly to the Buyer's direct claims against our legal representatives or vicarious agents.
- 7.6 In all cases of an end-delivery to a consumer the statutory regulations remain unaffected (supplier's recourse pursuant to Arts. 478, 479 BGB).

8. Statute of limitations

- 8.1 All claims of the Buyer or of the Principal, irrespective of whichever legal grounds they may be based, shall fall under the statute of limitations after twelve (12) months as from passage of risk – where legally permissible.
- 8.2 This does not affect the period of limitations in the event of delivery recourse in accordance with Arts. 478, 479 BGB.

9. Repairs, installations, calibration service

- 9.1 Insofar as repairs, installation or other services are to be performed on site, the Buyer shall, at its own cost, create all the prerequisites in its area of operations required to properly render the service. If the service is to be rendered at our premises, the respective items shall be shipped at the Buyer's risk and cost.
- 9.2 Insofar as we do not render the assigned services in full, or not as per agreement, we shall be required, at our own discretion, either to gratuitously repeat them or provide subsequent improvement (subsequent performance). If subsequent performance is not possible, or is rejected or does not occur or fails for other reasons for which we are not responsible within a period of reasonable length set by the Principal, the Principal may, at its discretion, withdraw from the contract, reduce the remuneration or rectify the defect at our cost or arrange for this to be carried out by a third party. A period need not be set in cases in which this is not required by law.
- 9.3 Further-reaching claims on the part of the Principal, in particular claims for damages instead of performance compensation for other direct or indirect damage – including attendant or consequential damage on the basis of whichever legal grounds – are excluded. This shall not apply if
 - 9.3.1 we have maliciously concealed a defect in title or material defect or if we have given a guarantee that the goods are free of such defects, or a guarantee regarding the quality of the goods;
 - 9.3.2 the damage is based on intent or gross negligence on our part, one of our legal representatives or vicarious agents or a negligent violation of key contractual obligations by us or these persons; key contractual obligations are understood as such obligations which must be fulfilled in order that the contract can be duly executed at all and which the contract partner usually trusts and may trust are observed;
 - 9.3.3 a culpable violation of an obligation by us, our legal representatives or vicarious agents has resulted in physical injury or damage to health;
 - 9.3.4 liability applies in accordance with the German Product Liability Act. In the event of basic negligence, our obligation to provide compensation shall be restricted in terms of amount to typical contractual and foreseeable damage.
- 9.4 The provisions in accordance with paragraph 9.3 apply accordingly to the Principal's direct claims against our legal representatives or vicarious agents.
- 9.5 All warranty claims and claims for damages resulting from repair, installation or other services shall fall under the statute of limitations – where legally permissible – after twelve (12) months.
- 9.6 In other respects, paragraphs 3 (Delay) and 5 (Prices and terms of payment) apply accordingly.

10. Data protection / Place of fulfillment / Jurisdiction

- 10.1 We shall treat data about the Buyer or the Principal regarding the business relationship or received in connection with this business relationship in accordance with the Federal Data Protection Act (BDSG).
- 10.2 Unless explicitly agreed otherwise, our registered place of business is place of fulfillment.
- 10.3 Frankfurt am Main is deemed exclusive place of jurisdiction for all disputes. However, we are also entitled to bring legal action against the Buyer or the Principal in their respective jurisdiction.