

General Terms and Conditions of Delivery

§ 1 Field of Application

- (1) These terms and conditions of sale apply exclusively to companies, corporate bodies under public law or special funds under public law in the sense of § 310 Paragraph 1 of the German Civil Code (BGB). We will only acknowledge conditions to the contrary or conditions which deviate from our terms and conditions of sale if we agree explicitly, in writing, to their validity.
- (2) These terms and conditions of sale also apply for all future transactions with the purchaser, insofar as they are legal transactions of a similar nature.

§ 2 Offer and Conclusion of Contract

Insofar as an order is considered to be an application (offer) in accordance with § 145 BGB, we can accept this within two weeks.

§ 3 Documents Submitted

We maintain rights of ownership and copyright to all documents submitted to the purchaser in connection with the issuing of the contract, for example calculations, drawings etc. These documents must not be made accessible to third parties unless we grant the purchaser our explicit, written agreement for this. Insofar as we have not accepted the purchaser's offer within the time period in § 2, these documents are to be returned to us without delay.

§ 4 Prices and Payment

- (1) Insofar as nothing is agreed in writing to the contrary, our prices apply, ex-works, including packaging and plus VAT in its valid amount.
- (2) Payment of the fee must take place exclusively to the account named in the invoice. Deduction of discounts is only permitted with special, written agreement.
- (3) Insofar as not otherwise agreed, the fee is to be paid within 30 days of delivery. Default charges are calculated to the amount of eight percentage points above the respective basic interest rate per year. We reserve the right to assert a higher amount for damage caused by delay.
- (4) Insofar as no fixed price agreement has been made, we reserve the right to appropriate price changes due to changed labour, material and distribution costs for deliveries which take place three months or more after conclusion of the contract.

§ 5 Offsetting and Right of Retention

The purchaser is only entitled to the right to offset if his counterclaims are uncontested or have been declared indisputable. The purchaser is only authorised to exercise the right of retention insofar as his counterclaim is based on the same contractual relationship.

§ 6 Delivery Period

- (1) The beginning of the delivery period stated by us presupposes timely and proper fulfilment of the purchaser's duty. We reserve the right to raise objection by reason of non-fulfilment of contract.
- (2) Should the purchaser come into default of acceptance or should he culpably breach other cooperation obligations, we are entitled to demand compensation for the damages sustained by us in this respect, including any additional expenditure. We reserve the right to further claims. Insofar as the above requirements exist, the risk of accidental loss or accidental deterioration of the object of the sale is transferred to the purchaser at the moment at which he comes into default of acceptance or debtor's delay.
- (3) Further statutory claims and rights of the purchaser due to a delay in delivery remain unaffected.

§ 7 Transfer of Risk with Shipment

If the goods are shipped to the purchaser's premises at his request, the risk of accidental loss or accidental deterioration of the goods is transferred to the purchaser upon dispatch, at the latest upon leaving the factory/warehouse. This applies irrespective of whether the above regulation remains unaffected without restriction, shipment of the goods takes place from the place of fulfilment, or who bears the freight costs.

§ 8 Retention of Title

- (1) We retain ownership of the delivered item up until complete payment of all outstanding accounts arising from the delivery contract. This also applies for all future deliveries, even if we do not always explicitly refer hereto. We are entitled to retract the object of the sale if the purchaser behaves in a way which is contrary to agreement.
- (2) The purchaser is obliged, insofar as ownership has not yet been transferred to him, to handle the object of the sale with care. In particular, he is obliged to insure this object, at his own expense, against theft, fire and water damage, in an amount sufficient to cover the reinstatement value. Should maintenance and inspection work be required, the purchaser shall carry these out on time and at his own expense. As long as ownership has yet to be transferred, the purchaser shall inform us in writing and without delay if the item delivered is distrained or otherwise exposed to encroachment by third parties. Insofar as the third party is unable to reimburse us with the judicial and extrajudicial costs of a claim in accordance with § 771 of the German Code of Civil Procedure (ZPO), the purchaser shall be liable towards us for the loss accrued.
- (3) The purchaser is entitled to resale of the goods subject to retention of title in the ordinary course of business. He assigns these purchaser's claims arising from the resale of the goods subject to retention of title to us now, to the amount of the invoice total (including VAT). This assignment applies irrespective of whether the object of the sale has been sold on with or without having been processed. The purchaser remains entitled to collect a claim even after the assignment. Our entitlement to collect the claim ourselves remains unaffected hereby. We will, however, not collect the claim, insofar as the purchaser complies with his payment obligations from the proceeds received, is not in default of payment and, in particular, insofar as no application to open insolvency proceedings has been made and no suspension of payment exists.
- (4) Editing and processing or reshaping of the object of sale by the purchaser always takes place in our name and on our instruction. In this case, the purchaser's reversionary interest in the object of sale carries forward to the reshaped object. Insofar as the object of sale is processed with other items not belonging to us, we shall acquire co-ownership of the new item, in the ratio of the objective value of our object of the sale to the other processed items at the time of processing. The same applies in the case of amalgamation. Insofar as amalgamation happens in such a way that the purchaser's object is deemed to be the main object, it is deemed to have been agreed that the purchaser transfers to us proportional co-ownership and holds for us the sole or co-ownership which results in this way. In order to secure our claims against the purchaser, he shall also assign to us claims which accrue to him against a third party through the connection of the goods subject to title retention with a property; we already accept this assignment in advance.
- (5) We commit ourselves to release the securities to which we are entitled at the request of the purchaser insofar as their value exceeds by more than 20 % the claims to be secured.

§ 9 Liability for Defects, Notice of Defects and Recourse/Recourse against Manufacturers

- (1) The purchaser's rights arising from product defects presuppose that the purchaser has duly complied with his duty of inspection and objection in accordance with § 377 of the German Commercial Code (HGB)
- (2) Claims for defects expire twelve months after delivery of the goods delivered by us has been made to the purchaser's premises. Aforementioned provisions do not apply insofar as the law provides, mandatorily, a longer time period in accordance with § 438 Paragraph 1 No. 2 of the BGB (Buildings and Items used for Buildings), § 479 Paragraph 1 of the BGB (Right of Recourse) and § 634a Paragraph 1 of the BGB (Building Defects). Our consent is to be obtained before any return shipment of goods.
- (3) Should, despite all due care, the delivered goods exhibit a defect which already existed at the time of transfer of risk, we are entitled to provide supplementary performance or deliver replacement goods, at our own choice, on the condition that the claim was raised in due time. We must be given the opportunity to provide supplementary performance within an appropriate time period. Rights of recourse remain unaffected by the above regulation without restriction.
- (4) Should the supplementary performance fail, the purchaser may withdraw from the contract or reduce the fee, irrespective of any compensation claims.

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- (5) Claims for defects do not exist in the case of merely insignificant deviation from the agreed condition. Claims for defects are excluded in the cases of merely insignificant impairment of usability, natural wear and tear, and damage which arise after transfer of risk due to incorrect or negligent handling, excessive strain, unsuitable operating supplies or exceptional, external influences which are not provided for in the contract. If repairs or modifications are carried out incorrectly by the purchaser or by third parties, no claims for defects exist for these or for the resulting consequences.
- (6) Claims of the purchaser due to expenditure required for the purpose of supplementary performance, in particular transport, travel, work and material costs are excluded. This also applies if the expenditure is increased because the goods delivered by us are subsequently moved to a location other than the purchaser's establishment, unless this transfer corresponds to their intended use.
- (7) The purchaser's rights of recourse against us only exist insofar as the purchaser has made no agreement with his customer going beyond the legally mandatory claims for defects. Furthermore, the above Paragraph (6) applies accordingly for the scope of the purchaser's right of recourse against us.
- (8) The claims for defects upon delivery of used goods are excluded with the exception of claims due to rights in accordance with Paragraph 2 Sentence 2. The regulations from Paragraph 2 Sentence 3 to Paragraph 7 apply accordingly.

§ 10 Intellectual Property Rights; Defects of Title

- (1) Insofar as not agreed otherwise, we are obliged to carry out delivery solely in the supplier's country, free of industrial property rights and/or copyrights of third parties (hereinafter: intellectual property rights). Insofar as a third party raises authorised claims against the purchaser due to a breach of intellectual property rights through deliveries made by us according to contract, we are liable towards the purchaser within the periods specified in accordance with § 9 Figure (2) as follows:
We will, at our choice and expense, either obtain a right of use for the affected deliveries, modify them such that the intellectual property right is not breached or replace them. If this is not possible for us under appropriate conditions, the purchaser is then entitled to the statutory rights of retraction or reduction. Our obligation to compensate for damage conforms to § 9 accordingly.
Our aforementioned obligations exist only insofar as the purchaser notifies us without delay and in writing of the claims made by the third party, does not acknowledge a breach and insofar all defensive measures and settlement negotiations remain reserved for us. Should the purchaser cease use of the delivery for reasons of mitigation or other good cause, he is obliged to indicate to the third party that no acknowledgement of an intellectual property right breach is connected with cessation of usage.
- (2) The purchaser's claims are excluded insofar as he is responsible for the intellectual property right breach.
- (3) The purchaser's claims are furthermore excluded insofar as the intellectual property right breach is caused by special stipulations of the purchaser, by a use which we could not foresee or by the fact that the delivery is changed by the purchaser or is used together with products not supplied by us.
- (4) In the case of an intellectual property right breach, the claims stipulated in § 9 apply accordingly. This also applies in the case of the existence of any other defects of title.
- (5) Further claims, or claims other than those stipulated in this Paragraph, which belong to the purchaser and which go against us or against our agents due to a defect of title are excluded.

§ 11 Fulfilment Reservation

- (1) The fulfilment of the contract is subject to there being no obstacles arising from German, US-American as well as other applicable national, EU or international provisions of foreign trade legislation as well as no embargos or other sanctions.
- (2) The purchaser is obliged to produce all information and documents which are required for export, shipment and/or import.

§ 12 Impossibility of Performance; Contract Adaptation

- (1) If delivery is impossible, the purchaser is entitled to demand compensation unless the impossibility is not attributable to us. However, the purchaser's claim for compensation is limited to 3 % of the value of the part of the delivery which cannot be used adequately due to the impossibility of performance. This limitation does not apply if liability is accepted for cases of intent, gross negligence or due to injury to life, limb or health; a change to the burden of proof to the detriment of the purchaser is not connected herewith. The purchaser's right to retract from the contract remains unaffected hereby.
- (2) In the case that a change to the applicable law or to other relevant laws or the change in the state of the art has significant impacts on the content of the delivery or its function or has significant impacts on our transaction or in the case of unforeseeable events in the sense of force majeure, the contract is to be amended appropriately with due consideration to the changed circumstances, in particular in reference to an increase in the contractually agreed total price for rendering the service. If this is not economically justifiable, we have the right to terminate the contract.
- (3) Irrespective of all other provisions of this contract, we are entitled to terminate the contract if a case of force majeure lasts for a period of more than 180 days. We accept no liability for any damage and costs arising from or in connection with a termination pursuant to Paragraph (2).
Should we want to make use of this termination right, we must inform the purchaser hereof, without delay, after the occurrence of force majeure has become known. This also applies if an extension to the delivery time was agreed between the parties first.

§ 13 Other Compensation Claims

- (1) Further and all other rights and claims of the purchaser against us, on whatever legal grounds, are excluded. In particular, the purchaser is not entitled to contest the contract due to an error; this also applies in the case of an error concerning defects in the deliveries. Claims of the purchaser for compensation, in particular due to product failures, downtime, loss of profit, and direct, indirect or consequential damage are excluded.
- (2) This does not apply insofar as liability is accepted mandatorily, for example in accordance with the German Product Liability Law, in cases of intent, gross negligence on the part of our superiors and executives or in cases of fraudulent concealment of defects.
- (3) This liability limitation does not apply to the benefit of our subcontractors, suppliers, representatives, superiors, executives and employees.

§ 14 Transfer of Rights to Third Parties

We are entitled to transfer rights and obligations arising from this contract to third parties. The transfer is not effective if the purchaser objects to this within a period of four weeks of written notification of the transfer.

§ 15 Other

- (1) This contract and all legal relationships of the parties are subject to the Law of the Federal Republic of Germany, under exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- (2) Place of fulfilment and exclusive place of jurisdiction for all legal disputes arising from this contract is our registered office, insofar as nothing otherwise arises from the contract confirmation.
- (3) All agreements which are made between the parties for the purpose of executing this contract are set down in writing in this contract.
- (4) Should individual provisions of this contract be or become ineffective or contain a loophole, the remaining provisions remain unaffected hereby. In place of the ineffective regulation, the parties commit themselves to find a legally permissible regulation which comes closest to the economic purpose of the ineffective regulation and/or which fills this loophole.