

## General Terms and Conditions for Delivery and Payment

Unless other terms or conditions have been agreed upon in writing, the following terms and conditions are exclusively valid for all present and future deliveries and services (subsequently jointly referred to as "deliveries"). Our customers' differing terms and conditions are valid only to the extent that we agree to them in writing.

These delivery and payment conditions only apply to customers who are either companies in the sense of § 14 BGB or legal persons under public law or public-law special investment funds (hereinafter called „customers“).

### **1. Offers**

1.1 Our offers are not binding. Contracts come into being only through our written confirmation of the order or by delivery.

1.2 Oral subsidiary agreements or pledges made by our employees which extend beyond the content of the written contract, or alter these conditions to our disadvantage, require our written confirmation to be effective.

### **2. Prices and Payment**

2.1 Our prices are net prices in EUR and are ex-works at the delivering facility of the supplier (Incoterms 2010®). The supplier's delivering facility will be stated in the respective order confirmation. The applicable value added tax will be shown as a separate position on the invoice.

2.2 Should the delivery period be more than 2 months and our expenses for materials, energy, labor, or raw materials) significantly increase after conclusion of the contract for reasons beyond our control, we have the right to increase the agreed-upon prices correspondingly. If a price increase should exceed 5 %, the customer has the right to withdraw from the contract in writing within 2 weeks of notification of the price increase.

2.3 Payments must be made to our designated bank account without deductions or fees within 30 days of the invoice date.. What determines the timeliness of the payment is the irrevocable payment deposit to our account. We accept checks and bills of exchange only on account and also only upon written agreement. The customer bears banking charges. Banking charges are due at once.

2.4 Should payment be delayed, we will charge interest of 8 percentage points above the base interest rate, or of 10%, whichever is greater.

2.5 The customer can only withhold payment or offset claims to the extent that the counterclaim is undisputed or legally binding.

2.6 Should reasonable doubt arise as to the customer's ability to pay, e.g. due to a history of delayed payments, current delay in payment, or bill or check protest, we have the right to require collateral or cash payment for contemporaneous performance. Should the customer not fulfill this request within an appropriate time limit, we may withdraw from the uncompleted part of the contract. We are not required to set a deadline when it is apparent that the customer is not able to provide collateral, e.g., when a decree of insolvency for the customer's assets has been applied for.

### **3. Delivery Period, Partial Deliveries, Assumption of Risk, Deliveries**

3.1 The delivery period begins with the receipt of the order confirmation, but not before clarification of all details of the execution of the order and of all technical questions, as well as not before receipt of an agreed-upon partial payment or an agreed-upon payment security. The delivery deadline has been met when the goods have been prepared for shipment before the deadline expires.

3.2 We have the right to make reasonable partial deliveries.

3.3 The risk of accidental loss or damage is assumed by the customer per ex-works at the delivering facility, ,even in cases of partial delivery or when we perform other services, e.g., the assumption of shipping expenses or the assumption of responsibility for transport, even using our own transport personnel.

3.4 Our deliveries are subject to our being punctually and correctly supplied by our own suppliers, unless we are at fault for the incorrect or delayed self-delivery.

3.5 Should delivery be delayed, our liability is limited in cases of ordinary negligence to 0.5% for every full week of delay, but limited to a total of no more than 5% of the net invoice amount of the portion of the order affected by the delay. Claims for damages instead of performance according to Section 5 are not affected by this. The customer must inform us about his liability concerning contractual penalties to his customers no later than at the time the contract is concluded.

3.6 If delivery is delayed due to circumstances for which we are not responsible, we will charge a monthly fee for storage at our facility of at least 0.5% of the net invoice amount of the stored goods.

3.7 Force majeure; stoppages; war; strikes and lockouts; shortages of labor, energy, or raw materials; transportation delays; actions by administrative bodies; as well as difficulties in obtaining authorizations, in particular import and export licenses, as well as other events that are neither foreseeable, avoidable, nor our responsibility free us from the obligation to deliver for the length of the disturbance and of its effects and correspondingly extend the delivery deadline. This extension of the delivery period also applies when the difficulties affect one of our suppliers or occur during an existing delay. Should the difficulty not only be temporary, both parties to the contract have the right to withdraw from the contract. In such cases, claims for damages are excluded.

### **4. Liability for Defects**

4.1 Visible defects must be reported in writing without delay, in any case within 8 days after receipt of the goods; hidden defects must be reported in writing without delay immediately after their discovery, in any case within 8 days after discovery. Should these deadlines be exceeded, all claims arising from liability for these defects expire.

4.2 The period of limitations is 12 months after transfer of the risk, provided that we are not liable for bodily injuries, that our obligations are not breached wilfully or through gross negligence, that we have not fraudulently concealed the defect, that we have not assumed an additional warranty, and that a longer compulsory deadline is not provided by law.

4.3 Should there be legitimate complaints, we have the choice between repairing the goods or delivering replacement goods. Should the replacement delivery also be defective; or the repair be unsuccessful, refused or delayed without good reason; and a reasonable period of grace has expired without remedy, the customer may demand a reduction in price or, for significant defects, withdraw from the contract and demand damages instead of performance according to Section 5.

4.4 We assume no supplementary performance expenses arising because the purchased item has been moved to a location other than the customer's place of business.

4.5 To the extent that the defect is substantially imputable to a third party, we have the right to limit our liability to the assignment of the warranty claims and rights against our suppliers of this third-party cause, unless the customer cannot satisfy his claims from the assigned claim or right or cannot assert his claims for other reasons. In such cases, the customer has the rights listed in paragraph 4.3.

4.6 Violation of third party trademark rights is a defect only when these rights are valid in the Federal Republic of Germany.

## 5. Damages

5.1 Claims for damages of any sort against us are excluded when we, our lawful representatives, or our vicarious agents have caused the damage by ordinary negligence.

This exclusion of liability does not apply should there be bodily injuries, should a contractual guarantee have been assumed, or should important contractual obligations have been violated. Important contractual obligations are those, the fulfillment whereof makes possible in the first place the proper fulfillment of the contract, and on the observance whereof the customer regularly relies and may rely, and the breach whereof endangers the accomplishment of the object of the contract.

In assuming a guarantee, however, our liability is limited to the extent of the guarantee, and, by negligent violation of important contractual obligations, to customary and foreseeable damages.

Claims arising from product liability law are not affected by this section.

5.2 With the exception of claims arising from liability for defects, claims arising from product liability law, and claims due to death, bodily injury, or damages to health, claims for damages expire one year after the customer learns about the damage and that it is compensable or should, without gross negligence, have learned about the damage and that it is compensable.

## 6. Retention of Title

6.1 We retain title to the goods delivered by us until all payments and irrevocable credit entry of accepted checks and bills of exchange arising from the complete business relationship with the customer have been received. Should an open account relationship with the customer exist, retention of title applies to the acknowledged balance.

6.2 The customer must treat the conditional goods with care and keep them in good condition and insure the conditional goods at his own expense against any loss and damage for their replacement value. The insurance policy and proof of premium payments must be provided to us on request. The customer cedes any possible claims arising from the insurance policies to us in advance, contingent on transfer of ownership.

6.3 Treatment and processing of the conditional goods by the customer are always carried out on our behalf without creating any liability on our part. Should the conditional goods be mixed or combined with goods not belonging to us, we acquire title to the new goods in the proportion of the invoiced net value of the conditional goods to that of the other materials. The created new goods are considered conditional goods in accordance with section 6.

6.4 The customer has the right to resell the conditional goods in the ordinary course of business, but he assigns us in full and in advance all claims arising from further sale or use.

6.5 As long as he meets his payment obligations to us, the customer has the right to collect the claims assigned to us.

6.6 Should the customer be in default of payment, we can revoke the permission to sell or further use the conditional goods and demand that the customer informs us about his assignment of claims and the corresponding debtors, gives us all information necessary for the collection of the claims, surrenders the documents relevant to these claims, and informs his debtors about the assignment of claims. We may repossess the conditional goods. Repossession of the conditional goods does not constitute withdrawal from the contract. Should we withdraw from the contract, we have the right to sell the goods on the open market.

6.7 Seizure by a third party of the conditional goods must be reported to us without delay. The costs incurred in contesting a seizure are borne by the customer to the extent that they cannot be imposed on the third party.

6.8 Should the value of collateral exceed our claims by more than 10%, and should the customer so request, we will release collateral of our choice to this extent.

6.9 To the extent that the retention of title is not effective under the law of the country wherein the delivered goods are located, the customer must provide security of equal value at our demand. If he does not satisfy this demand, we may demand immediate payment of all open invoices regardless of agreed payment deadlines.

## 7. Packaging

Unless the customer chooses otherwise, we take back transport packaging located in Germany, but not at a private end-user's property, at our place of business during our usual opening. The customer bears the costs of return shipment and proper disposal. The packaging must be returned clean, free of foreign substances, and sorted according to type. Otherwise the customer bears the resulting additional expenses.

## 8 Place of Fulfillment, Place of Jurisdiction, Choice of Law

8.1 The invalidity of individual terms or conditions does not affect the validity of the rest of the contract.

8.2 The place of fulfillment for all claims is Hamburg, Germany.

**8.3 The place of jurisdiction for all disputes arising from the delivery contract is Hamburg, Germany. However, we also have the right to sue at the customer's place of business.**

8.4 Solely German law applies. The United Nations Convention on Contracts for the International Sale of Goods (CISG) from 11 April 1980 does not apply.