

## I. General

1. All orders are accepted and executed on the basis of the following terms and conditions which shall also apply for future deliveries for identical or similar commercial transactions even if no repeat notification is given. By placing orders, the Buyer accepts these delivery conditions. Deviations desired by the Buyer or its own terms of business which conflict with these terms and conditions of sale and delivery shall only be incorporated into the contract if acknowledged in writing by the Seller.

2. The Buyer is hereby expressly informed that only the Seller's management, and not its employees, representatives or other persons acting on its behalf, is entitled to amend the pre-formulated contract text, give assurances or conclude ancillary agreements.

This particularly applies for assurances and agreements relating to the characteristics of the article of sale and the type of use.

3. In the event of sale by sample, the characteristics of the sample are to be deemed guaranteed. Assurances of any suitability for use are therefore not associated therewith.

4. Contracts with foreign buyers are always subject to the law of the Federal Republic of Germany. Clauses such as fob, cif, etc. that are customary in the trade shall be interpreted in accordance with the rules of the International Chamber of Commerce (INCOTERMS 2010).

## II. Quotations, Orders

1. The Seller's quotations are non-binding with regard to quantity, delivery period and availability.

The Seller is entitled to make production-related over- or underdeliveries of up to 10%. The Buyer shall accept the over- or underdelivery. The purchase price shall increase or decrease in proportion to the over- or underperformance. Any over- or underdelivery shall be taken into account proportionately in the price. The total price will change according to its extent.

2. Orders will only become binding upon written or printed confirmation - including the - Seller's invoice.

## III. Prices

1. All prices are quoted ex works or ex the Seller's delivering works.

2. Unless otherwise agreed in writing, the net list prices valid at the time of the order's placement plus the current VAT rate at the time of delivery or service provision shall apply.

## IV. Payment

1. Invoices are payable without deductions within 30 days of the invoice date. If payment is delayed, interest will be charged at a rate of 5 percent above the basic interest rate without prejudice to the assertion of any further damages.

2. If the payment deadline is missed, the Seller can, at its option, suspend the contract's performance until an appropriate advance payment is made.

3. If the Buyer does not assign a purpose to the payment, the Seller reserves the right to apply payments to older invoices and the default interest and costs accumulated thereon in the following order: Costs, interest, principal claim.

## V. Offsetting

The Buyer shall only offset counterclaims against demands of the Seller that are undisputed or have been determined to be legally valid.

## VI. Delivery

1. The Seller is committed to delivering as quickly as possible but is not obliged to comply with a fixed delivery date, unless this has been expressly agreed.

2. If in exceptional cases a fixed delivery date has been agreed and delivery is delayed, the Buyer shall grant the Seller an appropriate grace period. The Buyer can withdraw from the contract if the delivery is still not effected within this period. If the Seller has already carried out a partial delivery or part performance, the Buyer may only withdraw from the contract completely if it can demonstrate that it has no interest in the contract's partial fulfilment.

3. Force majeure events, such as fire damage or flooding and unforeseen occurrences of operational or traffic disruptions, lack of manpower, energy, raw or auxiliary materials, strikes, lock-outs at the premises of the Seller or a third party, official orders or other obstacles not attributable to the Seller and which result in default, will release the Seller from its obligation to deliver for the duration of the disruption and in accordance with its extent. Both parties may withdraw from the contract if the delivery or acceptance deadline is delayed by more than eight weeks as a result of the disruption and there is no prospect of the disruption being resolved or removed.

## VII. Shipping

1. If the shipment of the goods has been agreed, the Seller reserves the right to select the shipping route and type. The Buyer shall pay the shipping costs. The same applies for increases in shipping rates that occur following the contract's conclusion and any additional costs for re-routing, storage costs, etc., where it has been agreed that carriage is not free of charge.

2. The risk of the goods' destruction, loss or damage shall pass to the Buyer upon the dispatch of the goods in the case of a distance sale and when the goods are handed over to the Buyer if it has undertaken to collect them.

## VIII. Retention of title and assignment in advance

1. The goods shall only become the Buyer's property when it has fulfilled all its obligations arising from the business relationship with the Seller.

2. If the Buyer's payment is delayed, the Seller may withdraw from the contract without granting a grace period and may request the return of the goods subject to retention of title from the Buyer.

3. Any processing or transformation of our goods by the Buyer is undertaken solely on the Seller's behalf. In the event of processing with other goods not belonging to the Seller, the Seller shall be entitled to co-ownership of the new item in proportion to the invoice value of the Seller's reserved goods to the purchase price of the other processed goods (at the time of processing). The rules regarding the retention of goods shall also apply accordingly for the new goods. If the Seller's reserved goods are inseparably commingled with other items, the Seller shall be entitled to co-ownership of the new items in the ratio of the invoice value of the Seller's reserved goods to the purchase price of the other commingled objects (at the time of mixing). The Buyer shall retain the sole title or co-ownership on the Seller's behalf.

4. The Buyer shall carefully store the reserved goods for the Seller and shall properly insure them at its own expense against loss and damage. It hereby assigns its claims under the insurance contracts in advance to the Seller.

5. Providing the Buyer duly fulfils its obligations to the Seller, the Buyer is entitled to have the goods subject to retention of title at its disposal during the normal course of business.

The Buyer is not entitled to pledge goods, transfer them by way of security, or otherwise encumber them. In the event of resale, the Buyer shall make the transfer of ownership dependent on full payment of the goods by its customer.

6. The Buyer hereby assigns to the Seller in advance all claims arising from a resale of the goods subject to retention of title together with all ancillary and security rights including claims from bills of exchange and cheques in order to secure all claims to which the Seller is entitled against the Buyer. If goods subject to retention of title are sold together with other items at a total price, the assignment shall be limited to the proportional amount of the Seller's invoice for the goods subject to retention of title sold together. If goods subject to retention of title are sold after processing with goods of third parties, the assignment is limited to that part of the claim which corresponds to the Seller's co-ownership share. The Buyer is entitled to collect the claims from a resale itself as long as it honours its payment obligations in due time. However, it shall not be entitled to constitute pledges or undertake any assignments whatsoever.

7. If it appears to the Seller that the enforcement of its claims is at risk, upon request, the Buyer shall inform its customers of the assignment and shall provide the Seller with all necessary information and documents. The Buyer shall immediately inform the Seller of any third party seizures of the goods subject to retention of title and assigned claims.

8. If the value of the security provided by the Buyer exceeds the value of claims to be secured by more than 20%, the Buyer can demand that the Seller release part of this security. The Seller shall decide which security will be released.

## **IX. Notifications of defects**

1. The Buyer shall examine the delivered goods immediately after receipt for any defects and shall notify the Seller immediately if any are discovered.

Statutory rights shall accrue to the Buyer in the event of defects in the delivered goods. Claims for damages on the Buyer's part due to obvious material defects of the delivered goods are excluded if the Buyer does not notify the Seller of the defects in writing immediately, but at the latest within a period of ten days after the goods' delivery.

2. In the event of latent defects, i.e. defects which could not have been discovered even in the course of proper inspection, the complaint shall also be made in writing immediately after the defect's discovery.

The Buyer shall bear the burden of proving whether the defect is a latent defect.

3. Ordinary, i.e. age- or use-related signs of wear and tear of the purchased item or parts thereof do not constitute a material defect and therefore do not constitute a right arising from a product defect accruing to the Buyer.

## **X. Warranty**

1. The Seller guarantees its deliveries subject to the proviso that it shall remedy defects which have been notified in good time and whose claims have not lapsed at its own expense by way of repair or, at its option, by way of replacement delivery, shall supply replacement goods or replace defective parts. The Buyer's warranty rights shall initially be limited to obtaining subsequent performance; if sub-

sequent performance fails, the Buyer shall have the right to assert a price reduction or withdraw from the contract at its discretion.

2. The warranty period is one year for the sale of new goods or a new purchased item and six months for used goods and items.

The date of delivery of the goods to the Buyer shall be decisive for the calculation of the statutory commencement of the limitation period.

## **XI. Liability**

1. Any other liability of the Seller for direct or indirect damage exceeding the above provisions is excluded irrespective of the legal basis, unless it is based on an intentional or grossly negligent breach of duty on the part of the Seller or its legal representatives or vicarious agents.

The Buyer's right to withdraw from the contract in the event of a breach of duty imputable to the Seller and which does not constitute a defect in delivery shall remain unaffected.

The Seller's liability for the breach of contractual obligations, whose fulfilment of which is essential for the contract's proper performance upon whose fulfilment the Buyer duly relies and may rely, shall remain unaffected, but shall be excluded if the damage concerned is not typical for the contract and is unforeseeable.

2. The Seller routinely has no influence over the processing of the goods it delivers. The Seller shall therefore not be liable for damage caused by or in connection with the processing of the goods it delivers, if the damage does not occur to the goods delivered or directly as a result of the goods delivered, unless such damage is due to an intentional or grossly negligent breach of duty on the part of the Seller or its legal representatives or vicarious agents.

3. The exclusion of liability regulated in paragraphs 1 and 2 shall not apply to damage resulting from death, physical injury or illness based on a negligent breach of duty on the Seller's part or an intentional or negligent breach of duty on the part of the Seller's legal representative or vicarious agent.

## **XII. Technical advice/Assurances**

Technical application advice or assistance from the Seller with regard to the use and/or processing of the goods is offered shall be given to the best of the Seller's knowledge, but shall not release the Buyer from the obligation to examine the products supplied by Seller as to their suitability for the intended purposes. Statements made by the Seller's employees or representatives with regard to the characteristics of the goods offered by the Seller are only binding if confirmed in writing by the Seller's management.

## **XIII. Place of performance and jurisdiction**

The place of performance for all mutual obligations and the place of jurisdiction for all disputes arising from the business relationship with the Buyer including all claims arising from bills of exchange and cheques is Hamburg.

However, the Seller is entitled to assert its claims at the Buyer's general place of jurisdiction.

## **XIV. Severability clause**

If individual clauses of these terms and conditions of sale and delivery are wholly or partly invalid, this shall not affect the validity of the remaining clauses or the remaining parts of such clauses.