

General Terms and Conditions of Business



§ 1 General Information – Area of Validity

- (1) Our terms of sales apply to all sales transactions with our business customers (hereafter referred to as “purchaser”). They apply exclusively and any provisions conflicting with or deviating from these General Terms and Conditions shall be expressly excluded, unless we have previously agreed to these in writing.
- (2) Our terms of sale also apply to all further transactions with the purchaser.

§ 2 Offer Documents

- (1) Our offers are subject to change. If the purchaser’s order qualifies as an offer in accordance with Sec. 145 GCC (German Civil Code) , we can accept this offer within two weeks.
- (2) We retain all ownership rights and copyrights applicable to all illustrations, drawings, estimates and all other related documentation. This also applies to those documents classified as “confidential”. Before transmitting these to third parties, the purchaser requires our express written permission.

§ 3 Prices – Payment Conditions, Packaging, Shipping

- (1) Insofar as nothing to the contrary is stated in the order confirmation, our prices are ex works prices (“EXW Norderstedt”, INCOTERMS 2010), including packaging; if a particularly elaborate packaging is needed, the customer is responsible for these costs separately.
- (2) If between the conclusion of the contract and the delivery public charges or fees, especially customs duties, Value Added Tax or road tolls should affect the order price, the respective party suffering a price disadvantage through this modification, is entitled to require an adjustment of the agreed order price. In this case the right to adjust the price is limited to maximum 15% of the agreed order price. If the price adjustment is minimum 10%, the other contracting party has the right to withdraw from the sales contract within an exclusion period

- of one week upon receipt of the demand for price adjustment. The above-mentioned provisions shall apply by analogy if currency fluctuations or official measures (for instance a customs inspection) affect the costs of the procurement of goods.
- (3) The minimum value per order is € 250.00 for transnational commerce (land borders), for overseas orders € 2,500.00 (sea borders), insofar as no special agreements have been made. We reserve the right of surplus or shortage deliveries of up to 10% if this is required for reasons of packing or production technique. The price will be adapted to the actual amount delivered.
- (4) All prices are to be understood net. They do not include the statutory VAT. The VAT is stated in the invoice separately at the applicable rate at the date of the invoice.
- (5) We package all materials in the standard manner with our choice of packaging materials, upon consideration of the means of transportation (by sea, air, or land), and it is included in the offer. In the case of special requests, the purchaser bears the costs for all packaging.
- (6) We are free to choose the means of transportation, insofar as no other special agreements have been made. The purchaser bears all costs for a special request regarding the method of shipping; this also applies to express (non-standard) and next-day shipping, even if we pay the initial freight charges.
- (7) Upon the purchaser’s request, we will cover the shipment by a transportation insurance policy; the purchaser bears all costs for this insurance.
- (8) Insofar as nothing to the contrary is indicated in the purchase order confirmation, the net purchase price (without deductions) is due upon receipt of the purchased items. The applicable statutory rules are effective in the case of delayed payment.
- (9) The deduction of a discount requires a separate written agreement.
- (10) The purchaser shall have rights of set-off or rights of retention only if his counterclaims are either reciprocal to the



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obligation (Sec. 320 GCC) towards our asserted claims or have been legally established as final and absolute, are undisputed and have been acknowledged by us. In addition, the purchaser is entitled to exercise the right of retention only insofar as his counterclaim is based on the same contractual relationship.

§ 4 Reservation of timely self-supply, force majeure

- (1) Correct and punctual delivery to us shall be reserved.
- (2) Government measures, revolts, strikes, lock-outs, fire, break-downs of machinery, inadequate supply of raw materials or energy, interruptions in transport as well as any other reasons beyond our control, which delay handover and dispatch, shall be considered as "force majeure" and shall entitle us to extend the delivery deadline accordingly. As soon as we obtain knowledge about any such circumstance, we shall be obliged to inform the purchaser. If a delayed performance due to the above-mentioned circumstances is unacceptable for one of the parties, this party is entitled to withdraw from the contract.

§ 5 Delivery Time

- (1) Unless otherwise agreed, the delivery dates and delivery periods are approximate delivery times. The commencement of the delivery time indicated by us requires the clarification of all technical questions.
- (2) In addition, the compliance with our delivery obligation requires the timely and proper fulfilment of the obligations on the part of the purchaser. We reserve the right to defend against non-fulfilment.
- (3) If the purchaser delays in the acceptance of the goods, or culpably violates other cooperation obligations, we are then authorised to claim the payment of damages, including additional expenses resulting from this violation, for the resulting loss. Additional claims are reserved.
- (4) If the requirements from paragraph 3 are met, the risk of incidental loss or the

incidental deterioration of the purchased item passes to the purchaser as soon as he is in delay, either in acceptance or in payment.

- (5) Our liability shall be determined by § 7.

§ 6 Liability for defects

- (1) Upon receipt of the purchased items the purchaser shall be obliged to carry out an immediate inspection of the goods and enter a notification of defects immediately after discovery. 7 days are deemed as immediate, if not in a specific case special circumstances make another period seem adequate. The infringement of this obligation involves the approval of the purchased items in accordance with the provisions of Sec. 377 German Commercial Code. If there is a suspicion of a significant defect of the delivered products, even if further inspections need to be carried out to verify the defect, the purchaser shall report to us any suspicions immediately. A breach of this obligation shall lead to liability of damages of the purchaser unless he is not responsible for this breach of obligation. For avoidance of consequential damages caused by a defect, the purchaser shall carry out appropriate test procedures at least with random samplings, before using the delivered goods.
- (2) Slight discrepancies in the colour of our products are not considered a defect, and therefore do not authorise a complaint.
- (3) Insofar as a defect on the purchased goods is present, we are authorised to our choice of subsequent performance, either in the form of elimination of the defects or delivery of a new object free of defects. In the case of the elimination of defects, we only bear those costs up to the amount of the purchase price. If the costs for the rectification of defects increase because the purchaser has transferred the goods after delivery to another place than the place of performance, the purchaser shall bear the extra costs.
- (4) The purchaser's rights regarding withdrawal from the contract and reduction shall be in compliance with the law, unless special provisions have been stipulated by these conditions of sale.



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- (5) The statute of limitations for any deficiency claims is 12 months, calculated from the date of the passing of the risk. The before-mentioned reduced period of limitation is not applicable for claims for damages due to a defect of the sold item or the infringement of the obligation for repair or replacement. This exception for claims for damages will be applicable only for claims for damages based on injuries to life, body or health or caused by gross negligence or intent by ourselves or on a liability in accordance with the Product Liability Act. The regulations about the entrepreneur's recourse for the sale of consumer goods (Sec. 478, 479 GCC) shall remain unaffected.
- (6) In addition, we highlight that all product information made available by us has been made to the best of our knowledge. No warranty or guarantee will be assumed and no compensation for damage will be paid. The information only refers to the products described and tested by us and does not relate to the use of our products or any other material or procedure. The purchaser has to respect the product information and carry out own tests in his own interest before using the products. He has to make sure that the legal provisions in force are adhered to.

§ 7 Liability for Compensation

- (1) Any claims for damages against us are excluded, except in cases of intent or gross negligence or breach of an essential contractual obligation. An essential contractual obligation in this sense shall mean any obligation that is essential for the proper execution of the contract and which the contractual partner can usually expect to be complied with.
- (2) The liability shall, however, be limited to the reimbursement of foreseeable damages typical of the contract insofar as there is no wilful intent.
- (3) The before-mentioned liability restrictions and exclusions do not apply for a liability according to the product liability law or for cases of death, bodily harm or damage to health.
- (4) The purchaser's claims for reimbursement of expenses according to Sec. 284

GCC are waived insofar as an entitlement for compensation for the damage instead of performance is excluded according to the preceding provisions.

§ 8 Retention of Title

- (1) We reserve the ownership of the purchased goods until all payments are resulting from the business transaction with the purchaser have been received. If the purchaser behaves in a manner contrary to the contract, this especially applies to a delay in payment, after setting an appropriate grace period we are authorised to withdraw from the contract and take back the purchased goods. The taking back of the sold items by us always means a withdrawal from the contract. After we have taken back the purchased goods, we reserve the right to utilise them as we see fit; the respective proceeds will be added to the purchaser's liabilities – minus reasonable costs of utilisation.
- (2) The purchaser is obligated to treat the purchased goods with the proper care; he is especially obligated to insure them sufficiently to the new value against damages from fire, water, and theft.
- (3) In the case of seizure or other intervention by third parties, the purchaser must inform us immediately in writing, so that we can file suit in accordance with Sec. 771 GCCP German (German Code of Civil Procedure). If the third party cannot reimburse us for the court-related and additional expenses in accordance with Sec, 771 GCCP, the purchaser is liable for our expenses.
- (4) The purchaser is authorised to resell the goods through the proper channels; however, at this point, he makes all assignments to us in the amount of the final invoice total (including VAT) which he receives from the resale against his sub purchaser or other third parties, and this regardless of whether the purchased goods have been sold without or after further processing. We hereby accept this assignment. The purchaser is still authorised to collect this claim, even after the assignment. Our authorisation to collect this claim remains hereby untouched. We are obligated, however, to



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not collect this claim as long as the purchaser fulfils his obligation to pay us a share of the accrued revenues without delay, and especially does not apply for bankruptcy, settlement or insolvency, or the payments have been cancelled. If the purchaser meets the objective requirements for the duty to file for insolvency, the purchaser must refrain from using the goods under retention, without being specifically requested to do so. The purchaser has the obligation to report to us immediately the stock of purchased goods. In this case we are furthermore entitled to withdraw from the contract and demand the surrender of the goods. If the purchased goods have been processed, transformed, amalgamated, mixed or combined with other products, we are entitled to demand restitution to a trustee; the purchaser is obliged to provide information on the companies, names, addresses and co-ownership shares of all co-owners. The same shall apply accordingly for claims assigned to us in accordance with the previous paragraphs; in addition and without being asked, the purchaser is obliged to provide us with the names and addresses of all debtors and copies of the documents which evidence claims against the purchaser.

- (5) The processing or re-shaping of the purchased goods by the purchaser will always be done for us. If the purchased goods are processed along with other objects not belonging to us, we acquire the co-ownership of the new item in ratio of the value of the original goods (end amount on the invoice, including VAT) to the other processed objects at the time of processing. For the item produced as a result of this processing, the same applies as to the purchased goods delivered under reserve.
- (6) If the purchased goods are combined inseparably with other objects not belonging to us, we acquire the co-ownership of the new item in ratio of the value of the original goods (end amount on the invoice, including VAT) to the other combined objects at the time of combining. If the combining takes place in such a manner so that the purchaser's item is the main component, it is considered agreed that the purchaser

transfers to us certain shares of co-ownership. In this way, the purchaser stores the sole property or joint property for us.

- (7) We are obligated to release the collateral entitled to us at the purchaser's request, insofar as the realisable value of our collateral exceeds the claims to be secured by more than 10 %; we reserve the right to choose which collateral we release.

§ 9 Jurisdiction – Place of Fulfilment / Data Protection

- (1) Applicable law is that of the Federal Republic of Germany; the applicability of UN sales law is excluded.
- (2) Exclusive venue for all disputes arising out of the contract shall be our registered place of business, if the purchaser is a merchant, a legal entity under public law, or legal special assets or has no general place of jurisdiction in Germany. We are authorised, however, to bring action against the purchaser at the jurisdiction for his place of residence.
- (3) If nothing to the contrary is included in the order confirmation, our company headquarters is the place of fulfilment for the delivery and for any guarantee claims of the purchaser.
- (4) The purchaser's attention is drawn to Sec. 26 /1 German Data Protection Act, according to which we save the purchaser's usual data disclosed in the course of our business relationship, as well as the purchaser's data necessary for our internal use.

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