

## **General Terms and Conditions of Sale and Delivery**

### **§ 1 General**

1.1.

All deliveries, services and offers of the Seller shall be made exclusively on the basis of these General Terms and Conditions of Sale and Delivery. They shall only apply to entrepreneurs within the meaning of Section 310 (1) BGB in conjunction with Section 14 BGB (hereinafter "Purchaser"). § 14 BGB (hereinafter referred to as "Buyer").

1.2.

These General Terms and Conditions of Sale and Delivery are an integral part of all contracts concluded by the Seller with the Buyer for the goods or services offered and delivered by the Seller. They shall also apply to all future business relations of a related nature with the Purchaser, even if they have not been expressly agreed again.

1.3.

Deviating terms and conditions of the orderer are expressly rejected.

### **§ 2 Offers and conclusion of contract**

2.1.

The Seller's offers are exclusively addressed to entrepreneurs who use the goods in their commercial or independent professional activity.

2.2.

Offers of the seller are subject to change and non-binding, unless they are expressly marked as non-binding or something else has been agreed individually. The Seller may accept orders or other offers within 10 working days of receipt.

2.3.

The contract with the Seller shall only come into effect upon the sending of an order confirmation. The Seller's order confirmation shall be exclusively decisive for the content of the contractually owed performance. Supplements and amendments to the agreements made must be in text form in order to be effective.

2.4.

Information on the object of the delivery or service (weights, dimensions, load-bearing capacity, tolerances, technical data, etc.) as well as graphic representations and descriptions are only approximately authoritative, unless the usability for the contractually intended purpose requires exact conformity. In particular, they are not guaranteed characteristics of quality unless a guarantee has been expressly agreed. Deviations customary in the trade as well as deviations that occur due to legal requirements or serve the purpose of technical improvement are permissible insofar as the usability for the contractually intended purpose is not impaired.

2.5.

Any existing copyrights or other intellectual property rights to descriptions, documents, calculations, illustrations or drawings which are made available to the Purchaser on the occasion of the negotiation or performance of the contract shall remain with the Seller or the other party entitled under copyright law. These may not be reproduced or commercially

exploited by the Purchaser without the consent of the Seller or the copyright holder, unless this is part of the contractually intended purpose.

### **§ 3 Prices and payment**

#### 3.1.

The prices stated shall only apply to the respective confirmed order. The prices are in EUR and net plus the statutory value added tax. Prices are ex works plus packaging and shipping. For deliveries abroad, customs duties and other public charges may be added.

#### 3.2.

The Seller reserves the right to adjust the prices accordingly if, after the conclusion of the contract, cost reductions or cost increases occur due to changes in the price of materials on the world market (raw materials, intermediate products), price adjustments by a sub-supplier, increases in transport costs or changes in collective agreements for which the Seller is not responsible. Evidence of the changes shall be provided to the Purchaser upon request. Insofar as the seller cannot be reasonably expected to adhere to the contract as a result of a change in the price of materials on the world market, the seller may withdraw from the contract in whole or in part by means of an immediate written declaration to the seller. If it is unreasonable to expect the Purchaser to adhere to the contract as a result of a price increase, the Purchaser may withdraw from the contract in whole or in part by giving immediate written notice to the Seller.

#### 3.3.

Invoice amounts are due for payment within 14 days from the date of invoice and without any deductions. The date of receipt of the invoice amount by the Seller shall be decisive for payment. Cheques shall only be accepted on account of performance and shall not be deemed to be payment until they have been cashed. If payment is not made when due, the outstanding amount shall bear interest at 5% p.a. from the due date. The assertion of higher interest and further damages in the event of default shall remain unaffected. Interest on arrears shall be charged at a rate of 8% p.a. above the respective base rate.

#### 3.4.

Offsetting with counterclaims of the customer or the exercise of rights of retention due to such claims is only permissible insofar as the counterclaims are undisputed, legally established or these are recognised by the seller.

### **§ 4 Delivery & Fulfilment**

#### 4.1.

Deliveries shall be made ex works. Shipment of the goods shall be at the risk of the Purchaser. For all deliveries, the risk shall pass to the customer upon delivery of the goods to the forwarding agent, the carrier or the person otherwise designated to carry out the shipment. This applies irrespective of whether the goods are dispatched from the place of performance or who bears the freight costs. The Seller shall only insure the consignment against theft, breakage, transport, fire and water damage or other insurable risks at the express request of the Purchaser and at the Purchaser's expense.

4.2.

Deadlines and delivery dates promised by the Seller shall always be approximate only, unless a fixed deadline or a fixed date has been expressly promised or bindingly agreed. The Seller shall be entitled to adjust deadlines and delivery dates accordingly in the event of the occurrence of obstacles for which the Seller is not responsible, such as material shortages on the world market, energy shortages, delivery delays on the part of a sub-supplier, disruptions in the logistics chain or industrial disputes, in particular strikes and lock-outs. The Seller shall inform the Purchaser thereof without undue delay and provide evidence of the events entitling the Purchaser to adjust the periods and delivery dates upon request. If such events make it significantly more difficult or impossible for the Seller to deliver or perform, and if the hindrance is not only of a temporary nature, the Seller shall be entitled to withdraw from the contract.

4.3.

Insofar as an acceptance is to take place, the object of purchase / service shall be deemed to have been accepted if the delivery and, insofar as the Seller is also responsible for the installation, the installation has been completed, the Seller has notified the Buyer of this with reference to the fiction of acceptance and has requested acceptance, at least 14 working days have elapsed since delivery or installation or the Purchaser has started to use the service / purchased item and in this case 7 working days have elapsed since delivery or installation and the Purchaser has failed to accept the service / purchased item within this period for a reason other than a defect notified to the Seller which makes use of the service / purchased item impossible or significantly impairs it.

4.4.

If the Purchaser is in default of acceptance of the performance or goods, the Seller shall be entitled to demand compensation for the damage incurred and any additional expenses; the same shall apply if the Purchaser culpably breaches duties to cooperate. Further claims shall remain reserved. If the above conditions are met, the risk of accidental loss or accidental deterioration of the object of sale shall pass to the orderer at the point in time at which the orderer is in default of acceptance or debtor's delay.

## **§ 5 Warranty**

5.1.

The delivered goods shall be inspected carefully immediately after delivery to the orderer or to the third party designated by him. With regard to obvious defects or other defects which would have been recognisable in the course of an immediate, careful inspection, they shall be deemed to have been approved by the customer if the seller does not receive a written notification of defects within 5 working days of delivery. With regard to other defects, the delivered goods shall be deemed to have been approved by the Buyer if the Seller does not receive a written notice of defect within seven working days of the time at which the defect became apparent.

5.2.

In the event of material defects in the delivered goods, the seller shall be obliged to either replace the goods or remedy the defect, at the seller's discretion.

5.3.

The warranty period shall be 1 year from delivery. This shall not apply to damages resulting from injury to life, body or health caused by a breach of duty by the Seller or a legal representative or vicarious agent of the Seller, nor to other damages caused by an

intentional or grossly negligent breach of duty by the Seller or a legal representative or vicarious agent of the Seller. Insofar as acceptance is required, the warranty period shall run from the time of acceptance. The foregoing provisions shall not apply where longer periods are prescribed by law pursuant to Section 438 (1) No. 2 BGB (buildings and things used for a building), Section 479 (1) BGB (right of recourse) and Section 634a (1) BGB (defects of a building).

5.4.

Any delivery of used items agreed with the Purchaser in an individual case shall be made to the exclusion of any warranty for material defects. This shall not apply to damages resulting from injury to life, body or health caused by a breach of duty by the Seller or a legal representative or vicarious agent of the Seller, nor to other damages caused by an intentional or grossly negligent breach of duty by the Seller or a legal representative or vicarious agent of the Seller.

5.5.

Guarantees shall only be deemed as such if they are clearly designated and agreed as such.

## **§ 6 Retention of title**

6.1.

The seller retains ownership of the delivered goods until the purchase price has been paid in full. This also applies to all future deliveries, even if the seller does not always refer to this.

6.2.

The buyer is not authorised to transfer ownership of the goods by way of security or to pledge them, but he remains entitled to sell the goods subject to retention of title in the ordinary course of business. He hereby assigns to the seller the claims arising therefrom against his business partners. This assignment shall apply irrespective of whether the purchased goods have been resold without or after processing. The buyer shall remain authorised to collect the claim even after the assignment. The authority of the seller to collect the claim himself remains unaffected. However, the Seller shall not collect the claim as long as the Purchaser meets its payment obligations from the proceeds collected, is not in default of payment and, in particular, as long as no application for the opening of insolvency proceedings has been filed or payments have not been suspended.

6.3.

The processing or transformation of the object of sale by the Buyer shall always be in the name and on behalf of the Seller. In this case, the expectant right of the buyer to the object of sale shall continue to exist in the transformed object. If the object of sale is processed with other objects not belonging to the Seller, the Seller shall acquire co-ownership of the new object in the ratio of the objective value of the object of sale to the other processed objects at the time of processing. The same shall apply in the event of mixing. If the mixing takes place in such a way that the item of the Purchaser is to be regarded as the main item, it shall be deemed to be agreed that the Purchaser shall transfer co-ownership to the Seller on a pro rata basis and shall hold the sole ownership or co-ownership thus created in safe custody for the Seller. In order to secure the Seller's claims against the Purchaser, the Purchaser shall also assign to the Seller such claims as accrue to the Purchaser against a third party as a result of the combination of the Retained Goods with real property; the Seller hereby accepts such assignment.

6.4.

If the value of the securities existing for the seller exceeds the existing claims by more than 10% on a sustained basis, the seller shall be obliged to release securities immediately at the request of the orderer.

## **§ 7 Liability**

7.1.

The Seller shall only be liable for damages if it or one of its vicarious agents has breached a material contractual obligation or if the damage is attributable to gross negligence or intent on the part of the Seller or one of its vicarious agents. An essential contractual obligation is an obligation the fulfilment of which makes the proper performance of the contract possible in the first place and on the observance of which the Purchaser may regularly rely.

7.2.

If the culpable breach of an essential contractual obligation is not due to gross negligence or intent, the Seller's liability shall be limited to the damage that was reasonably foreseeable for the Seller at the time the contract was concluded. In the event of liability for simple negligence, the Seller's obligation to pay compensation shall be limited to a maximum amount of € 10,000.00.

7.3.

The above liability provisions apply to contractual as well as non-contractual claims. Liability on the basis of mandatory statutory provisions, warranted characteristics, assumed guarantees and for damages arising from injury to life, limb or health shall remain unaffected.

## **§ 8 Final provisions**

8.1.

The law of the Federal Republic of Germany shall apply exclusively. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (UN Sales Convention) shall not apply.

8.2.

The place of performance and jurisdiction for all disputes arising from the respective contractual relationship shall be the Seller's place of business. The same shall apply if the Purchaser does not have a general place of jurisdiction in Germany or if the Purchaser's habitual residence is unknown at the time the action is brought. In this case, too, the exclusive place of jurisdiction for all disputes arising from this contract shall be the Seller's place of business. The Seller shall also remain entitled to bring an action at the Purchaser's place of business.

8.3.

If any present or future provision of these Terms and Conditions is or becomes invalid or unenforceable in whole or in part, this shall not affect the validity of the remaining provisions of these Terms and Conditions or of any contract concluded, unless the performance of the contract would cause unreasonable hardship to one party. The same shall apply if a loophole requiring supplementation arises after conclusion of the contract. The contracting parties shall replace an invalid or unenforceable provision or a gap requiring filling with a valid provision that corresponds in its legal and economic content to the invalid or unenforceable provision or comes as close as possible to the economic intention of both parties.