

## General Terms and Conditions of Sale

We confirm your order subject to the exclusive application of our general terms and conditions of sale printed on the reverse side hereof.

### § 1 Application

- (1) These General Terms and Conditions of Sale (GTCS) shall apply exclusively. These GTCS are considered to have been accepted upon placing an order, and at the latest upon the partial or full acceptance of the delivery or performance. Differing or contrary terms shall not apply except if expressly agreed upon in writing.
- (2) These GTCS shall also govern all future transactions between the parties and shall also apply if we perform delivery despite our knowledge of differing or contrary terms.
- (3) These GTCS shall only apply vis-à-vis merchants, governmental entities, or special governmental estates within the meaning of sec. 310 para. 1 BGB (German Civil Code).

### § 2 Offer, Acceptance

- (1) All offers made by the seller are subject to change.
- (2) Insofar as the order constitutes an offer within the meaning of § 145 BGB we are entitled to accept the offer within two weeks after receipt of the contractual offer. Such acceptance can be declared either in writing or by delivering the ordered goods to the buyer.
- (3) The seller concludes the contract subject to the condition of the correct and timely delivery to the seller itself by its suppliers. This shall only apply for the event that the non-delivery is not the seller's responsibility.

### § 3 Prices, Payment

- (1) Prices are ex works, exclusive of the respective statutory VAT and exclusive of costs for packaging, except as otherwise expressly agreed upon.
- (2) The invoice day is the date of dispatch.
- ~~(3) The payment can be made by means of a bank debit, money transfer, cash payment or cheque payable immediately.~~
- (4) The purchase price is due and payable net within 30 days from the date of the invoice. From the due date interest in the amount of 9 percentage points above the respective base interest rate p.a. shall accrue. We reserve all rights to claim further damages for delay, in particular the lump sum payment for arrears in accordance with sec. 288 para. 5 BGB.

### § 4 Offset, Retainer

The purchaser shall be entitled to offset only insofar as the purchaser's counterclaim is acknowledged, undisputed or assessed in a legally binding judgement. The purchaser is entitled to claim retainer rights only to the extent such rights are based on the same transaction. This shall not affect sec. 8 para. 3 of these GTCS.

### § 5 Delivery

- (1) Delivery of the goods shall be made ex works, by the buyer collecting the goods at the seller's premises at any time after the seller has notified the buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the seller, by the seller delivering the goods to that place.
- (2) Delivery is conditioned upon timely and proper performance of all duties of the purchaser. Defences based on non-performance of the contract are reserved.
- (3) Delivery deadlines are to be understood as approximate deadlines, unless explicitly stated by the seller to be binding.
- (4) The seller shall have the right to make partial deliveries if the partial delivery can be used by the customer within the scope of the contractually intended use, the delivery of the remaining ordered goods is ensured and this gives rise to no significant additional costs or work for the buyer (unless the seller declares its willingness to take over these costs). The invoices issued for partial deliveries shall be payable irrespective of the overall delivery.

### § 6 Delays in delivery and acceptance

- (1) The seller shall not be liable for impossibility of delivery or for delivery delays, in as much as these are caused by force majeure or other events unforeseen at the time of concluding the contract (e.g. all kinds of business interruptions, difficulties in procuring energy or material, transport delays) for which the seller is not responsible. In as much as such events significantly hinder the seller in its delivery or performance or if they make such delivery or performance impossible, and the hindrance is not only of a temporary nature, the seller

shall have the right to withdraw from the contract. In case of hindrances of limited duration, the delivery periods or deadlines extend for the amount of time of the hindrance. If the delay makes it unreasonable for the buyer to accept the delivery, it can withdraw from the contract by means of an immediate written declaration of withdrawal to the seller.

(2) In case of default in acceptance or other breach of duties to cooperate by the buyer the seller is entitled to claim any resulting damage including but not limited to additional expenses. Any further damages are reserved. In this case, the risk of loss or damage to the goods passes to the buyer at the time of such default or breach of duty to cooperate.

(3) If the buyer is in arrears with its acceptance of the goods, the seller shall have the right to refuse further deliveries until such time as the buyer has met its obligations vis-à-vis the seller from the agreed delivery. Any rights to claim damages shall remain unaffected by this.

(4) The seller can make further deliveries contingent to an advance payment of the purchase price or a security deposit, without the buyer acquiring any rights as a result to withdraw from the concluded agreement.

## **§ 7 Passing of Risk, Shipment**

If the purchaser demands shipment of the goods the risk of loss or damage to the goods passes to the purchaser upon dispatch.

## **§ 8 Retention of Title**

(1) The seller retains title to the goods until receipt of all payments in full. In case of breach of contract by the purchaser including, without limitation, default in payment, the seller is entitled to take possession of the goods.

(2) The purchaser shall handle the goods with due care, maintain suitable insurance for the goods and, to the extent necessary, service and maintain the goods.

(3) As long as the purchase price has not been completely paid, the purchaser shall immediately inform the seller in writing if the goods become subject to rights of third persons or other encumbrances.

(4) The purchaser may resell goods subject to the above retention of title only in the course of his regular business. For this case, the purchaser hereby assigns all claims arising out of such resale, whether the goods have been processed or not, to the seller. Notwithstanding our right to claim direct payment the purchaser shall be entitled to receive the payment on the assigned claims. To this end, the seller agrees to not demand payment on the assigned claims to the extent the purchaser complies with all his obligations for payment and does not become subject to an application for insolvency or similar proceedings or to any stay of payments.

The buyer shall only have the right to transfer resale rights to other third parties with the prior written consent of the seller. The seller's rights from §§ 47, 48 of the German Insolvency Ordinance (InsO) remain reserved.

(5) Insofar as the above securities exceed the secured claim by more than 10%, the seller is obligated, upon his election, to release such securities upon the purchaser's request.

## **§ 9 Warranty**

(1) In case of non-conformity of the goods the buyer is entitled to alternative performance in the form of remedy of the defect or delivery of conforming goods. If such alternative performance has failed, the buyer is entitled to reduce the purchase price or to withdraw from the contract. However, there is no right of withdrawal in the event of an insignificant defect. Claims of the buyer for damages or compensation for futile expenses shall only exist in accordance with sec. 9 of these GTCS and are otherwise excluded.

(2) Precondition for any warranty claim of the buyer is the buyer's full compliance with all requirements regarding inspection and objection established by sec. 377 HGB (German Commercial Code). Complaints are to be made in writing to the seller, attaching the packing note enclosed with the delivery or another identification paper. This shall also apply to any wrong deliveries or deviations from the agreed amounts delivered.

(3) The seller shall have the right to render its owed subsequent performance dependent on the buyer paying the owed purchase price. The buyer shall have the right, however, to retain a share of the purchase price commensurate with the defect.

(4) Only the product description that the seller has agreed upon with the buyer shall be deemed the proper quality of the goods. Public statements, promotions or third-party advertisements shall not represent a statement of a given quality of the goods in addition to the product description from the seller.

(4) In deviation from sec 438 para. 1 No. 3 BGB, the general period of limitation for warranty claims for defective goods or legal defects shall be one year from delivery. Special statutory regulations pertaining to third party rights to the in-rem handover of goods (sec. 438 para 1. No.1 BGB), fraudulent intent on the part of the vendor (sec. 438 para 3 BGB) and to rights in supplier regress upon final delivery to a consumer remain unaffected. In as much as the seller does not explicitly recognize possible claims for defects on the part of the seller, new deliveries and subsequent rectifications of the delivered object shall be made as a gesture of good will and without acknowledgement of a duty to do so.

## **§ 10 Liability**

(1) In case of intent or gross negligence on the seller's part or by his agents or assistants in performance the seller is liable according to the provisions of applicable law; the same applies in case of breach of fundamental contract obligations. To the extent the breach of contract is unintentionally the liability for damages shall be limited to the typically predictable damage.

(2) Our liability for culpable damage to life, body or health as well as our liability under the Product Liability Act shall remain unaffected. The same applies if the seller has fraudulently failed to disclose a defect or offered a guarantee for the quality of the goods.

(3) The period of limitation set forth in sec 9 para. 4 of these GTCS also applies to contractual and non-contractual claims for damages on the part of the customer, as based on a defect to the goods, unless application of the normal statutory period of limitation (sec. 195, 199 BGB) would lead in the individual case to a shorter period of limitation. The periods of limitation provided for by German product liability law shall remain unaffected in any case.

(3) Any liability not expressly provided for above shall be disclaimed.

## **§ 11 Applicable law, Jurisdiction**

(1) This contract shall be governed by the laws of the Federal Republic of Germany (excluding international uniform law, in particular the Convention on Contracts for the International Sale of Goods).

(2) The contract language is German. Therefore, the German version shall prevail in the event of different interpretation options of the GTCS set out herein.

(3) If individual provisions of the contract with the buyer, including these GTCS should be or become partially or entirely invalid, this shall not affect the validity of the remaining provisions. In such case, the partially or entirely invalid provisions as the contractual partners would have agreed upon in accordance with the commercial goals of the contract and the purpose of these GTCS if they had been aware of the invalidity of the provision.

(4) Place of performance and exclusive place of jurisdiction for all disputes arising out of or in connection with this contract shall be Verden, Germany.