

# General Terms & Conditions of Sale (valid from 16.09.2016)

## § 1 Scope

(1) The goods, services and offers of the vendor are based exclusively on these commercial conditions. Hence, these also apply for all future business relationships, even where not explicitly agreed. If a contract is concluded based on a previous offer of the vendor, which refers to the applicability of its General Terms & Conditions while at the same time conveying the content of these conditions, the conditions shall be considered accepted at the time of the acceptance of the offer or, respectively, the submission of the order. Counter-confirmations of the purchaser, with reference to its conditions of business and purchasing, are hereby contradicted.

(2) All agreements made between the vendor and the purchaser for the purpose of executing this contract must be set out in writing in same.

## § 2 Offer and contractual conclusion

(1) The vendor's offers are subject to change without notice and without obligation. Acceptance declarations and all orders require a hard or electronic copy of the vendor's confirmation to be legally effective.

(2) Drawings, diagrams, dimensions, weights and other performance data are binding only when this is expressly agreed in writing.

(3) The vendor's sales personnel are not authorised to make any verbal agreements or give any verbal assurances that extend beyond the content of the written contract.

## § 3 Prices

(1) Unless otherwise stated, the vendor shall be bound to the prices quoted in its offer for 30 days from the date thereof. The prices stated on the vendor's confirmation of the order are applicable. Unless otherwise stated in the offer, no tax imposed with respect to the sale is included in any quotation by the vendor; any such tax (for example, VAT) shall be paid by the purchaser. Additional supplies and services will be charged separately.

(2) Unless otherwise agreed, the prices are ex-works/stock (EXW), including standard packaging.

(3) The transportation costs incurred are payable by the purchaser. They are, where applicable, invoiced in addition to the price for the delivered goods. If the transportation costs increase, the vendor shall be entitled to demand the payment of a corresponding higher delivery price.

## § 4 Time of delivery and performance

(1) Delivery deadlines or periods, which can be agreed with or without obligation, must be in writing. Delivery deadlines start on the day of the vendor's order acceptance, however, not before all execution details have been clarified in full.

(2) The vendor is not liable for the impossibility of delivery or for delays in delivery insofar as these have been caused by force majeure or by any other events which were not foreseeable at the time of the conclusion of the contract (e.g. disruptions of operations of all kinds, difficulties in procuring materials or energy, transport delays, incorrect or late delivery by suppliers, strikes, lawful lockouts, workforce shortages, interferences by public authorities or difficulties in procuring necessary official approvals), and for which the vendor is not responsible. Temporary events of this kind shall entitle the vendor to extend the periods for delivery and services by the duration of such hindrance plus an appropriate run-up time. If such events make delivery or service for the vendor difficult or impossible and the obstruction is not only of temporary duration, the vendor shall be entitled to full or partial withdrawal from the contract.

(3) The vendor will notify the purchaser immediately if a specific good or service is unavailable. In case the purchaser cannot reasonably be expected to accept the delivery or the service as a result of the delay, he may withdraw from the contract by means of a written notification to the vendor, after having unsuccessfully set an extended deadline for the performance by the vendor.

(4) Should the vendor be in default with a delivery or service, or should a delivery or service become impossible for the vendor, irrespective of the reason therefor, the vendor's liability for the compensation of damages shall be limited in accordance with § 9 of these Terms & Conditions.

(5) The vendor is entitled to partial deliveries and partial performance at any time.

(6) Compliance with the delivery and service obligations on the part of the vendor relies on prompt and proper fulfillment of obligations on the part of the purchaser. Should the purchaser fall into delay in meeting his obligations, the agreed delivery period shall be extended by the period of this delay. This likewise applies if a delivery deadline has been agreed.

(7) If the purchaser falls into acceptance delay, the vendor shall be entitled to demand compensation for the damages it has sustained; the risk of any impairment and coincidental demise shall pass to the purchaser at the onset of the acceptance delay.

## § 5 Transfer of risk

(1) The risk passes to the purchaser as soon as the consignment has been handed to the person responsible for transportation or, for the purposes of shipping, has left the warehouse of the vendor or its appointed agent. If goods collection by the purchaser has been agreed, the risk shall pass to the purchaser when notification of readiness to dispatch has been issued, the exception being that the goods cannot be shipped for reasons attributable to the vendor.

(2) Goods notified as ready for dispatch must be called-off immediately, otherwise, or in the event that the goods cannot be dispatched for reasons attributable to the purchaser, the vendor shall be entitled to store them as it sees fit at the risk and cost of the purchaser and to bill them as delivered. If collection by truck has been agreed and the material has not been collected within 4 days following notification of readiness to dispatch, the vendor shall be entitled to initiate dispatch as it sees fit. If the purchaser does not call for the goods within a period of 30 days after the contractually agreed date or after the notification of readiness to dispatch the goods, whichever event is last, the vendor shall moreover be entitled, at his option, to withdraw from the contract and to charge a fee for the annulment of the contract. This fee shall be 25% of the purchase price in the event of standard stocked goods, or 100% of the purchase price minus any proceeds achieved through the resale of the goods in the event of non-standard goods, which have been specifically manufactured for the purchaser.

(3) For FOB vendors and analogously for other sales, specifically carriage paid or CIF to the destination port, the following conditions

also apply:

a) Deliveries by waterways must be effected only by standard, open shipping free of any hindrances in minimum quantities to be agreed. Any costs incurred as a result of additional work or delayed shipping times shall be paid by the purchaser.

b) If loading of the goods shipped as instructed is delayed for any reason whatsoever, the vendor or its pointed agent shall be entitled, although not obliged, to take all measures deemed appropriate for maintaining the goods at the costs and risk of the purchaser.

c) If for any reason whatsoever, the goods cannot be shipped to the intended port, the vendor shall be entitled to deliver to an alternative port. The purchaser will in turn be obliged to issue the vendor or its appointed agent with the altered shipping instruction accordingly.

d) The vendor accepts no liability for the consequences of the shipping advices, document extracts not being sent in due time.

e) In the event of transport damage, the purchaser must arrange immediately for the facts to be recorded at the sites concerned. Failure to do so will invalidate any claims filed against the shippers and the insurers.

(4) The vendor shall arrange transport insurance for the purchaser only the basis of a written agreement. The costs are paid by the purchaser.

## § 6 Warranty

(1) The vendor warrants that the products are free from manufacturing defects and material defects. Deviations in the condition of the goods within the scope of the manufacturer's usual production tolerances do not constitute a defect. Product-specific details of mechanical properties or chemical analyses are the result of tests, which have been made on samples at specific sites by specific prescribed testing methods. The information provided on the properties of the goods is therefore limited to the values obtained at these particular sites and in application of the respective testing methods and do not refer to values that may be detected on the goods in question at any other site. These kind of deviations therefore do not constitute a defect. The warranty period is 1 year, but in the case that the purchaser is a consumer according § 13 Bürgerliches Gesetzbuch 2 years, and commences when the goods are accepted by the purchaser.

(2) The purchaser must notify the vendor immediately and in writing of any defects, the latest time being within two weeks of receiving the delivery object. Defects which, even on close inspection, cannot be detected within this period must be notified to the vendor immediately and in writing as soon as they are discovered.

(3) Goods acknowledged by the vendor as defective will be accepted back and replaced with faultless versions of same. Should such remedy fail after an appropriate period, the purchaser may choose to reduce payment or demand termination of the contract, as it sees fit.

(4) Any liability for normal wear and tear is ruled out. Furthermore, vendor and purchaser agree that the goods are not to be used in nuclear installations unless otherwise explicitly agreed in writing in the contract. The deviation of the goods from a specific characteristic or condition can, moreover, only be considered as a defect if a corresponding written agreement concerning the relevant characteristic condition of the good has been concluded.

(5) Only the direct purchaser is entitled to claim warranty against the vendor; such claims are not assignable.

(6) The paragraphs above cover only product warranty, any other kind of warranty claims shall not be recognised. This does not apply to damage claims arising from characteristic assurances, which are to protect the purchaser against the risk of consequential damage from defects or to warranty events applicable to the warranty provisions for the sale of consumer goods.

## § 7 Retention of ownership

(1) Until all demands, which the vendor, on account of any cause in law, may place against the purchaser now or in the future, are satisfied (including all current account balance demands), the vendor is guaranteed the following securities, which it will release at it sees fit, insofar as the value of same does not exceed 10% in the long term.

(2) The goods remain the property of the vendor. Processing or conversion is always effected for the vendor as manufacturer, but without any obligation on its part. If the vendor's (co)ownership lapses on account of combination, it is agreed at this stage that the purchaser's (co-)ownership to the combined item shall pass to the vendor pro rata (invoice value). The purchaser shall safeguard the vendor's (co)ownership free of charge. Goods to which the vendor is entitled (co-)ownership are hereinafter referred to as reserved goods.

(3) The purchaser is entitled to process and to sell the reserved goods as part of normal business dealings, insofar as it is not in delay. In this regard, the purchaser and his customers may not supply or distribute goods in an unprocessed condition outside the area of the European Union, unless this is expressly foreseen in the contract.

(4) Pledging or transferring by way of security is not permitted. The purchaser shall, by way of precaution, assign in full at this point in time any claims arising from resale or any other cause in law (insurance, illegal action) regarding the reserved goods (including all current account balance demands) to the vendor. The vendor irrevocably authorises the purchaser to collect any claims assigned to the vendor for its own account and on its own behalf. This authority may only be revoked if the purchaser fails to properly meet its payment obligations.

(5) In the event of the reserved goods being accessed by third parties, specifically pledges, the purchaser shall refer to the vendor's ownership and notify same immediately so that the vendor may enforce its right ownership right. Insofar as the third party is unable to reimburse the vendor, either in or out of court, with the costs incurred in this regard, the purchaser shall be liable.

(6) In the event of illegal conduct on the part of the purchaser, specifically payment delays, the vendor shall be entitled to accept back the reserved goods or, where applicable, demand assignment of the purchaser's claim to return against third parties. Accepting back or pledging of the reserved goods by the vendor does not constitute a termination of the contract.

## § 8 Payment

(1) Unless otherwise agreed, the vendor's invoices are payable in full immediately on being issued. The vendor is entitled, despite any contradictory provisions of the purchaser, to offset payments in the first instance against its older debts. It will notify the purchaser of the nature of the offset. If costs and interest have already been incurred, the vendor is entitled to offset payments first against costs, then against interest and then against the principal sum.

(2) A payment is not considered effected until the vendor is able to draw on the amount. The vendor shall only accept discountable bills for payment based on the basis of an express agreement. Credits for bills or cheques are always issued subject to receipt at the value

applicable on the day decisive for the vendor's bank, on which the vendor may draw on the counter value. Discount charges, stamp duty, bank and collection charges must be borne by the purchaser and are due and payable immediately.

(3) Should the purchaser fall into delay, the vendor shall be entitled to demand interest from the relevant point in time amounting to 5% above the base rate and, in the event that the purchaser is not a customer as defined by law, amounting to 8% above the base rate. The vendor, however, reserves the right to even claim a higher interest rate. In the case of a delay in payment by the purchaser, the vendor reserves the right to suspend deliveries or to withdraw from the contract. Moreover, the vendor reserves the right to demand payment in full or to demand the provision of appropriate securities before delivery of the goods.

(4) If the vendor becomes aware of any circumstances that calls the purchaser's credit standing into question, specifically noncompliance with payment conditions or bills and cheque stoppages, as well as the initiation of bankruptcy proceedings, the vendor shall also be entitled to call in the entire remaining debt, even if it has accepted cheques and/or bills. In this event, the vendor shall also be entitled to demand prepayment or securities and withdraw from the contract or demand compensation on account of non-fulfilment, if the purchaser fails to make the prepayment or furnish the securities in due time.

(5) The purchaser shall be entitled to offset, retain or reduce, even if complaints or counterclaims have been asserted, only if the counterclaims have been legally established or are undisputed. The purchaser is, however, entitled to retain, including on account of counterclaims arising from the same contractual relationship.

## § 9 Liability limitation

The possibility of damage claims, regardless of the nature of the infringement, including inadmissible conduct both against the vendor and against its vicarious with respect to contractual liability, shall be ruled out, subject to the absence of intent or grossly negligent conduct. In the event of key contractual obligations being infringed, the vendor shall be liable for all negligence, although only up to the amount of the envisaged damage. Claims on account of lost profit, saved expenditure, claims derived from third party claims, as well as other indirect and consequential damage will not be recognised unless a quality characteristic guaranteed by the vendor is aimed at safeguarding the purchaser against such claims. The liability limitations and exclusions do not apply for claims arising on account of malicious conduct on the part of the vendor, as well as, in the event of liability for guaranteed quality characteristics, for claims derived from the product liability act and damage arising from injury to life, limb and health. Insofar as liability on the part of the vendor is ruled out or limited, this also applies to its salaried staff, personnel, representatives and vicarious agents.

## § 10 Technical advice

The vendor shall not be responsible for the results of any technical advice in connection with the design, installation or use of the goods.

## § 11 Confidentiality of the provisions of the contract

The agreed price and the further content of the contract concluded between the vendor and the purchaser shall be kept confidential. The purchaser shall be obliged to ensure, while observing the utmost reasonable care, that his executives, staff, and representatives maintain the confidentiality of the provisions of the contract.

## § 12 Applicable law, place of jurisdiction, partial invalidity

(1) These Terms & Conditions and the legal relationship between vendor and purchaser overall are governed exclusively by German substantive law.

(2) Insofar as the purchaser is a registered trader as defined in the German Commercial Code, juristic entity governed by public law or a special asset governed by public law, the vendor's principal place of business is the exclusive place of jurisdiction for all disputes arising from, either directly or indirectly, from this contractual relationship.

(3) Should any one provision in these Terms & Conditions or any one provision from any other agreements be or become invalid, the validity of the remaining provisions or agreements shall not be affected.

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