

Our Conditions of sale apply in addition to our quotations and order confirmations, unless otherwise stated in writing.

### **I. General**

- (1) All supplies and services are subject to these conditions and to any separate contractual agreements. Deviating conditions of purchase of the purchaser do not become content of the contract even through order acceptance. Unless separately agreed, a contract results from the written order confirmation of the supplier.
- (2) Any individual agreements with the purchaser made in individual cases (including any amendments, supplements or side agreements) always take precedence over these conditions of sale.
- (3) The supplier retains property rights and copyright over samples, cost projections, drawings and similar information in material and immaterial form – including electronic form; these must not be disclosed to third parties. The supplier undertakes to disclose any information and documents designated as confidential by the purchaser to third parties only with the permission of the purchaser.
- (4) Neither a manual full signature nor an electronic signature is needed in order to maintain the written form. Notification by fax or email fulfil the requirement for the written form.

### **II. Price and payment**

- (1) Prices are stated in € and apply ex works including loading on site, but excluding packaging and unloading. Prices exclude VAT at the statutory rate.
- (2) Unless otherwise agreed, payment must be received in our account without any deduction no later than 30 days after the invoice date.
- (3) Where the payment deadline is missed, the purchaser is in default. During the period of default, interest at the statutory interest rate shall be charged on the purchase price. The supplier retains the right to claim further damages for default. The option of claiming the commercial default interest also remains unaffected (§ 353 HGB).
- (4) The purchaser has the right to withhold payments or to offset them against counterclaims only where its counterclaims are undisputed or have been established in law.

### **III. Supply period, delay in supply**

- (1) The supply period results from the agreements between the contractual parties. Adherence to them by the supplier requires that all commercial and technical questions have been clarified between the parties and that the purchaser has fulfilled all obligations to which it is subject, for example provision of the required official certificates or permits or payment of a first instalment. If this is not the case, the supply period is extended accordingly. This does not apply where the supplier is responsible for the delay.
- (2) Adherence to the supply period is subject to correct and punctual self-delivery. The supplier shall provide notification of any delays that become apparent as soon as possible.
- (3) The supply period is adhered to where the object of supply has left the site of the supplier or readiness for shipment has been reported before expiry of the supply period. Where acceptance is required, the acceptance date – except in the case of justified refusal of acceptance – is decisive, alternatively notification of readiness for acceptance.
- (4) Where shipping or acceptance of the object of supply is delayed for reasons for which the purchaser is responsible, the purchaser shall be charged for the costs resulting from the delay starting from one month after notification of readiness for shipping or acceptance.
- (5) Where failure to adhere to the supply period is attributable to force majeure, labour disputes or other events that are not under the influence of the supplier, the supply period is extended accordingly. The supplier shall notify the purchaser of the start and end of such situations as soon as possible.
- (6) The purchaser can withdraw from the contract without giving notice if it becomes definitively impossible for the supplier to provide the entire service before transfer of risk. The purchaser can also withdraw from the contract if, in the case of an order, the execution of part of the supply becomes impossible and the purchaser

has a justified interest in rejecting the partial supply. If this is not the case, the purchaser shall pay the contractual price incurred for the partial supply.

The same applies in the case of incapacity of the supplier. Otherwise, Section VII. (2) applies.

Where the impossibility or incapacity occurs during the delay in acceptance or where the purchaser is solely or predominantly responsible for these circumstances, the purchaser remains obligated to provide service in return.

If the purchaser sets the supplier a reasonable period to provide the service – taking the statutory exceptions into account – after the due date and this period is not adhered to, the purchaser is entitled to withdraw from the contract in line with the statutory provisions. It undertakes at the request of the supplier to declare within a reasonable period whether it will make use of its right to withdraw.

Further claims from delay in supply are determined exclusively in accordance with Section VII. (2) of these conditions.

#### **IV. Transfer of risk, acceptance**

- (1) Risk is transferred to the purchaser once the object of supply has left the site, even if partial supply is conducted or the supplier has also taken on other services, such as shipping costs or delivery and installation. Where acceptance is required, this is decisive for the transfer of risk. It must be conducted immediately upon the acceptance date, alternatively following notification from the supplier of readiness for acceptance. The purchaser may not refuse acceptance in the case of an insignificant defect.
- (2) Where shipping or acceptance is delayed or does not take place as a result of circumstances that are not attributable to the supplier, the risk is transferred to the purchaser from the day on which readiness for shipping or acceptance is reported. The supplier undertakes to take out insurance demanded by the purchaser at the cost of the purchaser.
- (3) Partial supply is permissible where reasonable for the purchaser.

#### **V. Retention of title**

- (1) The supplier retains ownership of the goods sold until full payment of all our current and future claims from the purchase contract and an ongoing business relationship (secured claims).
- (2) The goods under retention of title may not be pledged to third parties, nor reassigned for security, before full payment of the secured claims. The purchaser shall inform the supplier immediately in writing if an application for the opening of insolvency proceedings is made or where third parties access goods belonging to third parties (e.g. seizure).
- (3) In the case of repudiatory conduct on the part of the purchaser, in particular failure to pay the purchase price due, the supplier is entitled in accordance with the statutory provisions to withdraw from the contract and/or to demand issue of the goods based on retention of title. The demand for issue does not concurrently comprise the declaration of withdrawal; instead, the supplier is entitled merely to demand issue of the goods and to retain the right of withdrawal. If the purchaser does not pay the purchase price due, the supplier may only assert these rights if the supplier has previously set the purchaser a reasonable deadline for payment without success or the setting of such a deadline is superfluous in accordance with the statutory provisions.
- (4) The purchaser is authorised until cancellation in accordance with c) below to further sell and/or process the goods under retention of title in the proper course of business. In this case, the provisions below apply in addition.
  - a) The retention of title extends to the products created by processing, mixing or connection of the goods of the supplier in their full value, whereby the supplier is considered manufacturer. Where the ownership of a third party remains in the case of processing, mixing or connection of goods of such third party, the supplier acquires joint ownership in the ratio of the invoice values of the processed, mixed or connected goods. Otherwise, the same applies for the product created as for the goods supplied under retention of title.
  - b) The purchaser now cedes the third party receivables that result from the further sale of the goods or product to the supplier for security in full or in the amount of any joint ownership proportion of the supplier

in accordance with the paragraph above. The supplier accepts the cession. The obligations of the purchaser named in (2) of this section also apply in relation to the ceded receivables.

- c) The purchaser remains authorized to claim the receivable in addition to the supplier. The supplier undertakes not to claim the receivable where the purchaser adheres to its payment obligations towards the supplier, there is no defect in its performance capability, and the supplier does not claim retention of title by exercising a right under (3) of this section. If this is the case, however, the supplier can demand that the purchaser notify it of the ceded receivables and their debtors, provides all information required for collection, issues the associated documents, and notifies the debtors (third parties) of the cession. In this case, the supplier is also entitled to withdraw the authorisation of the purchaser for further sale and processing of the goods under retention of title.
- d) If the viable value of the securities exceeds the claims of the supplier by more than 10 %, the supplier shall approve securities of our choice at the request of the purchaser.

## **VI. Claims for defects**

For material and legal defects to the supply, the supplier provides a guarantee to the exclusion of further claims – subject to Section VII – as follows:

### **Material defects**

- (1) All parts that are found to be defective as a result of circumstances before the transfer of risk shall be remedied or replaced free from defects free of charge at the choice of the supplier. The supplier shall be informed immediately in writing of the determination of such defects. Replaced parts become the property of the supplier.
- (2) Following agreement with the supplier, the purchaser shall grant the supplier the necessary time and opportunity to execute all remedies and replacement supplies considered necessary by the supplier; otherwise, the supplier is exempt from liability for the resulting consequences. Only in urgent cases in which operational reliability is threatened or in order to defend against disproportionately large damage, whereby the supplier shall be notified immediately, the purchaser has the right to remedy the defect itself or to have it remedied by third parties and to demand reimbursement for the required expenses from the supplier.
- (3) Of the direct costs resulting from the remedy or replacement supply, the supplier – where the complaint is found to be justified – shall bear the costs of the replacement item including shipping. It shall also bear the costs of removal and installation and the costs of any required provision of the necessary installers and auxiliary staff including travel costs, where this does not cause a disproportionate burden on the supplier.
- (4) The purchaser has a right of withdrawal from the contract in line with the statutory provisions if the supplier – taking the statutory exceptional cases into account – misses in vain a reasonable deadline set for him for remedy or replacement supply due to a material defect. Where there is merely an insignificant defect, the purchaser is entitled only to a right to reduce the contractual price. Otherwise, the right to reduce the contractual price is excluded. Further claims are based on Section VII. (2) of these conditions.
- (5) In particular, no warranty is granted in the following cases: unsuitable or improper use, incorrect installation or commissioning by the purchaser or third party, natural wear, incorrect or negligent treatment, improper maintenance, unsuitable equipment, deficient construction work, unsuitable construction ground, chemical, electro-chemical or electrical influences – where these are not the responsibility of the supplier.
- (6) Where the purchaser or a third party conducts improper remedy, the supplier is not liable for the resulting consequences. The same applies in the case of modifications to the object of supply made without the prior consent of the supplier.

### **Legal defects**

- (7) Where the use of the object of supply leads to a violation of commercial property rights or copyright in-country, the supplier shall at its own cost grant the purchaser the right to further use or modify the object of supply in a way that is reasonable for the order and such that the violation of property rights no longer exists. If this is not possible at economically reasonable conditions or within a reasonable period, the purchaser is entitled to withdraw from the contract. Under the above circumstances, the supplier also has a right to withdraw from the contract. In addition, the supplier shall exempt the purchaser from undisputed or legally determined claims of the holder of the property rights affected,

- (8) The obligations of the supplier named in Section VI. (7) are subject to Section VII. (2) conclusively in the case of the violation of property rights or copyright. They exist only where
- the purchaser informs the supplier immediately of any violations of property rights or copyright claimed,
  - the purchaser supports the supplier to a reasonable extent in defending the claims made and/or enables the supplier to conduct the modification measures in accordance with Section VI. (7),
  - the supplier reserves the right to exercise all defence measures including extrajudicial provisions,
  - the legal defect is not based on an instruction of the purchaser, and
  - the violation of the law is not caused by the purchaser modifying the object of supply unilaterally or having used it in a non-contractual way.

#### **VII. Liability of the supplier, disclaimer**

- (1) The purchaser has the statutory warranty rights unless otherwise stated by the provisions below.
- (2) The supplier is liable in accordance with the statutory provisions for damage to life, limb and health that is attributable to a violation of duty by the supplier, its vicarious agents or its legal representatives. The supplier is also liable in accordance with the statutory provisions for damage that is attributable to malice or gross negligence by the supplier, its vicarious agents or its legal representatives. Claims under the German Product Liability Act (ProdHaftG) exist without limitation where the scope of this Act is opened.
- (3) The supplier is also liable for the violation of obligations without whose fulfilment the proper execution of the contract would not be possible and on the adherence to which the purchaser can regularly rely. Where the supplier, its vicarious agent or its legal representative acts with slight negligence in such a case, liability is limited to damage that is foreseeable and typical of the contract at the time of contract conclusion, unless claims for compensation are based on injury to life, limb or health.
- (4) The supplier is also liable where it has fraudulently concealed a defect or taken on a warranty for the condition of the goods.
- (5) There are no further claims for compensation towards the supplier. This also applies in favour of its vicarious agents and legal representatives where the purchaser asserts claims towards them.

#### **VIII. Statute of limitation**

- (1) Notwithstanding § 438 subs. 1 No. 3 BGB, the general limitation period for claims resulting from material and legal defects is one year after delivery. Where acceptance is agreed, the statute of limitation begins upon acceptance.
- (2) The above limitation periods of the order also apply to contractual and non-contractual compensation claims of the purchaser based on a defect of the goods, unless the application of the regular statutory statute of limitation (§§ 195, 199 BGB) would lead to a shorter period of limitation in a specific case. Compensation claims of the purchaser in accordance with Section VII. (2) expire exclusively in line with the statutory limitation periods.

#### **IX. Software use**

Where software is included in the scope of supply, the purchaser is granted a non-exclusive right to use the supplied software including its documentation. It is ceded for use on the object of supply determined for the purpose. Use of the software on more than one system is prohibited. The purchaser may only to the extent permissible under the law (§§ 69a ff. UrhG) duplicate, revise or translate the software or convert it from the object code to the source code. The purchaser undertakes not to remove manufacturer information – especially copyright information – or to modify it without the explicit prior agreement of the supplier. The supplier or software supplier retains all other rights to the software and the documentation including the copies. Sub-licences must not be granted.

#### **X. Applicable law, place of jurisdiction**

- (1) All legal relationships between the supplier and the purchaser are subject exclusively to the prevailing law of the Federal Republic of Germany for legal relationships between domestic parties to the exclusion of the provisions of the UN Convention on Contracts for the International Sales of Goods.

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- (2) If the purchaser is an agent under the German Commercial Code, a legal entity in public law, or a special fund under public law, the exclusive place of jurisdiction – including internationally – for all disputes arising directly or indirectly from the contractual relationship is the business seat of the supplier in Bielefeld, Germany. This also applies accordingly where the purchaser is an entrepreneur under § 14 BGB [German Civil Code]. However, in all cases, the supplier is also entitled to institute legal proceedings at the place of fulfilment of the supply obligation in accordance with these Conditions of Sale or an overriding individual agreement or at the general place of jurisdiction of the purchaser. Overriding statutory provisions, in particular on exclusive responsibilities, remain unaffected.

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