

GENERAL PAYMENT AND DELIVERY CONDITIONS

– B2B –

§1 General

1.1 The following conditions are valid for all our offers, sales, deliveries and services and become part of the contract. They do not apply if our contractual partner is a private person and does not trade professionally or commercially. They also apply to all future business relationships, even if they are not expressly agreed again.

1.2 Deviating or supplementary general terms and conditions of the buyer, we hereby expressly disagree. They also do not apply if the buyer has based their order or other explanation.

§2 Offers and orders

2.1 Our offers are free, unless they are designated in written form as binding. An effective contract therefore only comes about through our order confirmation or the delivery of the goods.

2.2 Dimensions, weights, illustrations, drawings and other documents that are part of our non-binding offers remain our property and are only approximate. Only with explicit written confirmation by us can they become binding contractual content.

§3 Doubtful solvency

3.1 If circumstances become known to us after conclusion of the contract which justify doubts about the buyer's solvency, we can make further deliveries dependent on an advance payment of the goods by the buyer. We can set the purchaser an appropriate deadline for the prepayment of the goods and withdraw from the contract if the advance payment is not received by the deadline; the buyer can provide security by bank guarantee instead of the advance payment. If we have already delivered the goods, the purchase price shall be due immediately without deduction, regardless of agreed payment terms.

3.2 Doubts about the Buyer's ability to pay are, among other things, justified if an application for the opening of insolvency proceedings has been filed against his assets or if he does not make payments to us or third parties punctually.

§4 Prices

4.1 Our prices are „ex works“ unless otherwise agreed with the buyer. The packaging costs are not included in the price.

4.2 The statutory value added tax is not included in our prices and will be shown separately in the invoice on the date of invoicing.

4.3 If more than 4 months have passed between the day of the conclusion of the contract and the day of delivery without our delay in delivery and if our valid price list has changed during this time, we may replace the agreed purchase price on the day of delivery Delivery to ask for valid list price. We will send the buyer a correspondingly amended order confirmation before delivery. The buyer may in this case withdraw from his order for the goods for which the price has been increased. He must declare the withdrawal in writing no later than the 7th working day after receipt of the amended order confirmation, a transmission by fax or e-mail is sufficient.

§5 Delivery time

5.1 All named delivery dates are non-binding and are considered to be only approximately agreed unless they have been expressly designated as binding by us. In the case of non-binding delivery dates, a delivery within 7 days after the specified delivery time is in any case still considered timely.

5.2 If we culpably fail to meet an expressly agreed deadline or are in default for any other reason, the purchaser shall grant us a reasonable period of grace commencing on the expiry of the punctual delivery date. After fruitless expiry of this grace period, the buyer is entitled to withdraw from the contract.

5.3 If performance is rendered temporarily impossible or considerably more difficult for us in whole or in part because of force majeure or other exceptional and unencumbered circumstances, the agreed delivery time shall be extended by the duration of the performance impediment. The same applies to a statutory or buyer's deadline for the provision of services, in particular for grace periods in the event of default.

5.4 Before expiry of the delivery period or performance period extended in accordance with paragraph 3, the buyer is neither entitled to withdraw from the contract nor to claim damages. If the impediment to performance lasts longer than 2 weeks, both the buyer and we are entitled to withdraw, as far as the contract has not yet been carried out. If the purchaser is entitled by contract or by law (e.g. due to loss of interest) to rescission without setting a grace period, this right shall remain unaffected.

5.5 In the event of any delay in delivery, unless it is based on intent or gross negligence, claims for damages of any kind are excluded.

§6 Distribution

6.1 The dispatch takes place on account of the buyer. The risk is transferred to him with the loading of the goods, even if carriage paid delivery is agreed and / or the dispatch takes place with our own vehicles. We are not obliged to take out a transport insurance.

6.2 Unless expressly agreed otherwise in writing, we are entitled to partial deliveries to a reasonable extent, which is calculated individually.

§7 Payment

7.1 Our invoices are payable in full within 30 days of the invoice date.

7.2 The buyer is also in default without a reminder on our part, if he does not pay the purchase price within 30 days of the due date and receipt of the invoice or an equivalent payment order.

7.3 If the buyer defaults on payment, all his payment obligations arising from the business relationship with us – including those for which bills of exchange have been made – become due immediately. In this case, we are entitled to demand interest at the statutory rate from the relevant date. The proof of a higher damage by the seller remains reserved.

7.4 Bills of exchange are only accepted by prior agreement and discounted ability without the provision of a discount. Also payments in the check / change procedure are accepted only on account of fulfillment. The purchase price claim expires only after complete redemption of bills of exchange. Exchange and discount charges are calculated separately and are to be paid immediately without deduction.

7.5 The Buyer shall only be entitled to offset, even if notice of defects or counterclaims are asserted, if the counterclaims have been legally established, acknowledged by the Seller or are undisputed. The buyer is only authorized to exercise a right of retention if his counterclaim is based on the same sales contract.

§8 Warranty / Liability

8.1 The buyer has to examine the received goods for completeness, transport damage, obvious defects, condition and their characteristics. Obvious defects must be reported in writing to us by the buyer within 2 weeks of delivery of the object of the contract.

8.2 We are not obligated to guarantee, if the buyer did not notify a obvious lack in writing in time. Insofar as we are responsible for a defect in the goods and the buyer was reprimanded in writing in good time, we are – under exclusion of the buyer's rights to withdraw from the contract or reduce the purchase price – for subsequent performance, unless we are due to the statutory provision to refuse supplementary performance. The buyer must grant us a reasonable period for supplementary performance for each individual defect.

8.3 The supplementary performance may be effected at the option of the buyer by removal of the defect or delivery of a new product. We are entitled to refuse the type of supplementary performance chosen by the buyer if it involves only disproportionate costs. During the subsequent performance, the reduction of the purchase price or the withdrawal from the contract by the buyer are excluded. A rework is considered as failed with the second futile attempt. If the subsequent performance has failed or the seller has refused the subsequent performance in its entirety, the buyer may, at his discretion, demand a reduction of the purchase price (reduction) or declare the withdrawal from the contract.

8.4 The purchaser can only assert claims for damages to the following conditions due to the defect, if the supplementary performance has failed or the supplementary performance is refused by us. The right of the buyer to assert further claims for damages under the following conditions remains unaffected.

8.5 For intentional or grossly negligent breaches of duty as well as for damages resulting from injury to life, body or health, we are fully liable in accordance with the statutory provisions. Incidentally, we shall only be liable if the breached contractual obligation is identifiable as essential for achieving the purpose of the contract, and only to a limited extent up to the amount of the typically foreseeable damage.

8.6 The limitation of liability according to paragraph 5 shall apply mutatis mutandis to claims other than contractual claims for damages, in particular claims arising from tort, with the exception of claims under the Product Liability Act. It also applies to our employees, employees, employees, agents and vicarious agents.

8.7 Insofar as we have given a quality and / or durability guarantee with regard to the goods or parts thereof, we are also liable under this guarantee. However, we are only liable for damages resulting from the lack of guaranteed quality or durability but not directly on the goods, if the risk of such damage is clearly covered by the guarantee of quality and durability.

8.8 We are also liable for damages caused by simple negligence, insofar as this negligence relates to the breach of such contractual obligations, the observance of which is of particular importance for the achievement of the purpose of the contract (cardinal obligations). However, we are only liable if the damage is typically associated with the contract and foreseeable. Incidentally, we are not liable for simple negligent breaches of non-essential secondary obligations. The limitations of liability contained in § 7 also apply insofar as the liability for the legal representatives, executives and other vicarious agents of the seller is affected.

8.9 Further liability is excluded regardless of the legal nature of the asserted claim. Insofar as the liability of the seller is excluded or limited, this also applies to the personal liability of his employees, employees, employees, representatives and vicarious agents.

§9 Retention of title

9.1 We reserve the title to the goods (reserved goods) until receipt of all payments from the purchase contract. The delivered goods shall not become the property of the buyer until they have fulfilled all their liabilities arising from the business relationship, including ancillary claims, claims for damages and the payment of checks and bills of exchange. In the case of the check-bill procedure, the retention of title in all its forms listed here does not expire with the check payment, but only with the redemption of the bill.

9.2 The Buyer must immediately inform us in writing of all access by third parties, in particular of foreclosure measures as well as any other impairment of his property. Buyer shall reimburse us for all damages and costs incurred as a result of a breach of this obligation and of necessary measures to protect against access by third parties.

9.3 If the buyer does not comply with his obligation to pay despite a reminder on our part, we can demand the surrender of the retained goods still in his possession without setting a deadline. The buyer is responsible for all applicable freight costs. In the seizure of the reserved property by us is always a withdrawal from the contract. We are entitled to retain the reserved goods after their retention. The proceeds of sale will be offset against our outstanding receivables.

§10 Place of Performance

The place of performance for payments is our commercial branch, for our delivery of goods the place of dispatch.

§11 Data Processing

The Buyer agrees that we process, in particular save or transfer to a credit protection organization the data about the Buyer in accordance with the Federal Data Protection Act for the fulfillment of own business purposes, insofar as this is done within the scope of the purpose of the contract or for safeguarding our legitimate interests and there is no reason to believe that the Buyer's legitimate interest in excluding the processing, in particular the transmission, of such data is predominant.

§12 Jurisdiction and applicable law

12.1 For the contractual relationship between the buyer and us, the law of the Federal Republic of Germany applies exclusively, even if the buyer has his domicile or business domicile abroad. The application of the Uniform Law on the International Sale of Goods and the Law on the Conclusion of International Sales Contracts for Moving Goods is excluded.

12.2 The buyer is not entitled to assign claims from the purchase agreement without the seller's consent.

12.3 If the buyer is a merchant, a legal entity under public law or a special fund under public law, then the place of jurisdiction for both parties – including for bill of exchange and check claims – is Hechingen. However, we are also entitled to sue the buyer at his general place of jurisdiction.

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