

GENERAL DELIVERY TERMS AND CONDITIONS

Version:12/2021

A. Scope of applicability

- 1) Any and all deliveries by our company shall exclusively take place on the basis of these terms and conditions. References by the customer to its own business terms and conditions are hereby excluded.
- 2) German law is exclusively applicable to the entire contractual relationship. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980 is excluded.

B. Delivery

- 1) For the transport of the ordered goods we contract a forwarding agent and/or carrier in the name and at the expense of the customer. With regard to the selection of the said person, we shall only be liable in the event of intent and gross negligence.
- 2) The delivery of the ordered goods shall be at the risk and expense of the customer. The risk shall pass to the customer upon delivery of the goods to the persons entrusted with the shipping.
- 3) Euro pallets that are not exchanged shall be charged to the customer at a price of €25.00 per piece.

C. Price and payment conditions

- 1) Unless stipulated otherwise in individual cases, our prices valid at the time of conclusion of the agreement shall apply, ex works, plus statutory VAT.
- 2) The purchase price is due and payable within 30 days from the date of the invoice and delivery of the goods. However, we are always entitled, also within the framework of an ongoing business relationship, to only make a delivery, either in whole or in part, against advance payment. We shall confirm a corresponding reservation at the latest with the order confirmation.
- 3) We reserve the right to adjust our prices insofar as unforeseeable changes in costs, in particular in the form of collective wage agreements or changes in the price of materials, commodities or energy, occur after the conclusion of the agreement and do not offset each other and there are more than four months between the conclusion of the agreement and the delivery. The price adjustment shall be made to the same extent as the change in costs; if so requested we shall provide evidence of the reason and extent of changes in costs.
- 4) In the event of a price increase of more than 10 percent, the customer can rescind if the re-saleability of our products is not insignificantly impaired by the price adjustment.

D. Force majeure and other impediments

Any and all events and other circumstances of which the occurrence is beyond our control, e.g. natural events, war, industrial disputes, shortages of commodities and energy, traffic and operational disruptions, fire and explosion damage, orders of higher authorities, shall release us from our contractual obligations for the duration of the disruption. As the occasion arises, we are neither held to procure the goods from third parties. If the said events last longer than three months then both the customer and we shall be entitled to rescind the agreement with regard to the delivery quantity affected by the disruption, with the exclusion of any claims for damages.

E. Reservation of title

- 1) We retain ownership of any and all delivered goods until payment in full of the purchase price as well as payment of any and all claims arising from our ongoing business relationship with the customer.
- 2) If goods subject to retention of title are processed by the customer into a new movable product then the processing shall be carried out for us as the seller without any corresponding liability on our part; the new product shall become our property. In the event of processing together with goods that do not belong to us, we shall acquire co-ownership of the new product in proportion to the value of the goods subject to retention of title to the other goods at the time of processing. If goods subject to retention of title are combined or mixed with goods that do not belong to us pursuant to §§ 947, 948 of the German Civil Code then we shall become co-owners in accordance with the statutory provisions. If the customer acquires sole ownership through combination, mixing or blending then they hereby transfer co-ownership to us in proportion to the value of the goods subject to reservation of title to the other goods at the time of combination, mixing or blending. As the occasion arises, the customer shall store the goods of which we are the owner or co-owner free of charge.
- 3) Receivables from the sale of goods subject to our ownership rights shall be ceded to us in advance by the customer by way of security to the extent of our ownership share in the goods sold. Insofar as we have acquired co-

ownership in the event of processing, combination or mixing, the cession shall be made in the ratio of the value of the goods delivered by us subject to retention of title to the value of the goods owned by third parties subject to retention of title.

- 4) The customer is entitled to dispose of the goods subject to retention of title in the course of their normal business operations and to collect the claims ceded to us. The said rights shall expire as soon as the customer fails to meet their obligations arising from the business relationship with us in due time, suspends payment and/or falls into financial difficulties. If the said preconditions materialise then we are entitled, with the exclusion of the right of retention, to demand the immediate provisional surrender of all the goods subject to retention of title at the expense of the customer without setting a period of grace or exercising the right of rescission.
- 5) At our request, the customer shall provide any and all necessary information regarding the stock of goods owned by us and regarding the claims ceded to us, and shall inform their customers of the cession.
- 6) If the value of the securities exceeds the secured claims by more than 20% in total then we shall be held to release securities, at our discretion, at the request of the customer.

F. Warranty and compensation

- 1) The customer is held to inspect the goods immediately after receipt on completeness and whether they comply with the stipulated product specification. Obvious defects on delivery must be recorded in writing on the delivery note and consignment note. Deviations from the stipulated product specification that become apparent during an incoming goods inspection must be reported to us in writing within a period of one week from receipt of the goods. Latent defects must be reported in writing within one week of discovery. Insofar as the buyer does not comply properly with these notification requirements, the assertion of the warranty claim is barred. The buyer shall bear the full onus of proof, in particular for the defect itself, the time of discovery, and for the timeliness of the notification of a defect.
- 2) If the goods are defective and the customer duly notified us of this in accordance with E. 1) then the customer shall be entitled to the statutory rights with the following conditions:
 - a) We shall be entitled, at our discretion, either to remedy the defect or to supply the customer with a defect-free product.
 - b) We reserve the right to make two attempts at subsequent performance. If the subsequent performance fails or is unacceptable to the customer then the customer can either rescind the agreement or reduce the purchase price.
 - c) For claims of the customer for compensation for unnecessary expenses due to a defect, the rules pursuant to F below shall apply.
- 3) The claims of the customer for defects shall become statute-barred after one year has lapsed since the delivery of the goods. In the following instances, instead of this 1-year period, the statutory limitation periods are applicable
 - a) in the event of our liability due to intent
 - b) in the event of fraudulent concealment of a defect
 - c) for claims against us due to the defectiveness of the goods if they were used for a building in accordance with their customary use and caused its defectiveness
 - d) for claims arising from injury to life, limb or health
 - e) for claims for other damages based on grossly negligent or intentional breach of duty.

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- 4) The customer shall not be entitled to any rights of retention. The customer can only declare a set-off if it concerns an undisputed or legally established claim on their part.
The customer shall not be entitled to any other rights of **set-off**.

G. Liability

We shall basically be liable for claims for damages in accordance with the statutory provisions. In the event of a simple negligent breach of essential contractual obligations, however, our liability shall be limited to compensation for typical, foreseeable damages. In the event of a breach of non-essential contractual obligations due to simple negligence, our liability is excluded. The aforementioned limitations of liability are not applicable in the event of damages resulting from injury to life, limb or health.

H Place of performance and jurisdiction

- 1) The place of performance for our deliveries and services is our relevant delivery works; the place of performance for the counter-performance is Cologne.
- 2) The place of jurisdiction for all reciprocal claims arising from and in connection with the delivery transaction is Cologne.