

# TERMS & CONDITIONS

## 1. APPLICATION

- (1) These terms and conditions of sale shall apply exclusively. Differing or contrary terms shall not apply except if expressly agreed upon in writing.
- (2) These terms and conditions of sale 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 terms and conditions of sale shall only apply vis á vis merchants, governmental entities, or special governmental estates within the meaning of sec. 310 para. 1 BGB (German Civil Code).

## 2. OFFER, ACCEPTANCE

- (1) Insofar as the order constitutes an offer within the meaning of § 145 BGB we are entitled to accept the offer within four weeks. Offers can be accepted by acknowledgement in writing, issuing of the invoice or delivery of the goods ordered.
- (2) Our offers are not binding, except as otherwise agreed upon in writing.

## 3. PRICES, PAYMENT

- (1) Prices are ex works (Incoterms 2020), exclusive of the respective statutory VAT, except as otherwise expressly agreed upon.
- (2) The purchase price is due and payable net upon receipt of the invoice except as otherwise expressly agreed upon. From the due date interest in the amount of 9 % above the respective base interest rate p. a. shall accrue. We reserve all rights to claim further damages for delay.

## 4. SETOFF, RIGHT OF RETENTION

- (1) The purchaser shall be entitled to offset and to retention only insofar as the purchaser's counterclaim is acknowledged, undisputed or assessed in a legally binding judgment. The purchaser can exercise a right of retention only to the extent such rights are based on the same transaction.

## 5. DELIVERY

- (1) Delivery is conditioned upon timely and proper performance of all duties of the purchaser based on the trading relation of the parties. Defenses based on non-performance of the contract are reserved.
- (2) In case of default in acceptance or other breach of duties to cooperate by the purchaser we are entitled to claim any resulting damage including but not limited to additional expenses, if any. Further damages are reserved. In this case, the risk of loss or damage to the goods passes to the purchaser at the time of such default or breach of duty to cooperate.
- (3) Our deliveries are subject to the following minimum quantities:  
In Germany: € 1.000,00  
Other countries: € 10.000,00.  
The minimum quantities applicable to deliveries of especially designed deliveries or packaging are subject to special agreement.
- (4) We shall deliver the goods on euro- and / or chep pallets and / or one-way pallets. The purchaser shall return the same quantity and quality of euro-or chep-pallets.
- (5) Our goods will be imperishable for a term of 180 days from passing of the risk except as otherwise agreed upon in writing.

## 6. PASSING OF RISK, SHIPMENT

- (1) If the purchaser demands shipment of the goods the risk of loss or damage to the goods passes to the purchaser upon dispatch.
- (2) In the event of circumstances mentioned in article 5 the risk of loss or damage to the goods passes to the purchaser at the time of such default or breach of duty to cooperate.

## 7. RETENTION OF TITLE

- (1) We retain 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, we are 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 us 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 us. Notwithstanding our right to claim direct payment the purchaser shall be entitled to receive the payment on the assigned claims. To this end, we agree 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.

(5) Insofar as the above securities exceed the secured claim by more than 10 %, we shall release such securities at our discretion upon the purchaser's request.

## 8. SUSPENSION OF DELIVERY

(1) In the event of default in payment we may suspend further deliveries unless all outstanding accounts have been settled.

## 9. WARRANTY

(1) Any warranty claim of the purchaser is subject to the purchaser fully complying with all requirements regarding inspection and objection established by sec. 377 HGB (German Commercial Code).

(2) Warranty claims must be put forward within a time-bar of 12 months of the passage of risk.

(3) In case of non-conformity of the goods the purchaser is entitled to subsequent performance in the form of remedy of the defect or delivery of conforming goods. If such subsequent performance has failed, the purchaser is entitled to reduce the purchase price or to withdraw the order.

## 10. LIABILITY

(1) In case of intent or gross negligence on our part or by our representatives or persons employed in performing contractual obligations we are liable according to the provisions of applicable law; the same applies in case of breach of fundamental contractual obligations. To the extent the breach of contract is unintentionally our 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.

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

## 11. ASSIGNMENT, DEFAULT, LEGAL COSTS

(1) We have the right to assign our receivables against the Buyer to a third party.

(2) If the Buyer is in default of a due payment, all other receivables against the Buyer may be called due.

(3) The Buyer shall bear all fees, costs and expenses incurred in connection with any legally successful legal action against it outside Germany.

## 12. APPLICABLE LAW, JURISDICTION

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

(2) Place of performance and exclusive place of jurisdiction for all disputes arising out of or in connection with this contract shall be Fürth.

(3) This agreement and its terms shall be construed in accordance with the laws of Germany. If the English legal meaning differs from the German legal meaning of this agreement and its terms the German meaning shall prevail.