

# GENERAL BUSINESS CONDITIONS

Valid from 01/01/2024

## I. GENERAL PROVISIONS

### 1. General Provisions

Conclusion of the contract, delivery and performance shall take place exclusively on the basis of the following conditions. Terms and conditions of the customer which differ from the present Terms and Conditions are hereby rejected; they shall not be accepted, even if we do not reject them again after receipt of the order. Our Terms and Conditions shall be deemed accepted when an order is placed by the customer.

### 2. Limitation of liability

- a) Our liability shall be limited to the damage that is typical for the contract and foreseeable according to the type of goods, in the event of the infringement of obligations through slight negligence. This shall also apply in the event of the infringement of obligations through slight negligence on the part of our legal representatives or vicarious agents. We shall not be liable vis-à-vis entrepreneurs in the event that insignificant contractual obligations are infringed through slight negligence.
- b) In the event of liability for minor negligence, our obligation to pay compensation for damage to property and any resulting pecuniary losses shall be limited to an amount of 5 million Euros per claim, even if it is a matter of an infringement of material contractual obligations.
- c) The aforementioned limitations of liability shall not affect claims of the buyer that arise from product liability. Furthermore, the limitations of liability shall not apply to the physical injury of, damage to the health of or the loss of life of the customer/supplier which is ascribed to us and is considered as intentional or grossly negligent by us or in case we granted a guarantee.
- d) Claims for compensation that are made by the customer/supplier on account of a defect shall lapse after one year has passed following delivery of the goods. This shall not apply if we can be accused of malice or if a case as set out in 2. c) is applicable.

### 3. Termination

We are entitled to terminate the contract with the customer/supplier extraordinarily without notice for a material cause in accordance with the applicable statutory provisions. Such a reason shall be deemed to exist, in particular, in the event of the impending or actual insolvency or over indebtedness of the customer/supplier, the opening of insolvency proceedings on the assets of the customer/supplier or the submission of an application for the opening of such proceedings.

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#### 4. Applicable law, place of fulfilment and place of jurisdiction

- a) The law of the Federal Republic of Germany shall apply. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not apply.
- b) The place of fulfilment for all obligations arising as a result of the contractual relationship shall be Ballendorf.
- c) Insofar as the contractual partner is a registered merchant in terms of the German Commercial Code, a public law legal entity or a special fund under public law, Ulm is agreed as the sole place of jurisdiction for all disputes arising directly or indirectly from the business relationship. The same provision shall apply if the buyer does not have any general place of jurisdiction in Germany, or if his place of residence or usual abode is unknown during the period when a legal action is filed.

#### 5. Partial invalidity

Sollten einzelne Bestimmungen dieser Lieferungs- und Zahlungsbedingungen ganz oder teilweise unwirksam sein, wird hiervon die Wirksamkeit aller sonstigen Bestimmungen oder Vereinbarungen nicht berührt. Die ganze oder teilweise Unwirksamkeit der Regelung soll durch eine Regelung ersetzt werden, deren wirtschaftlicher Erfolg dem der Unwirksamen möglichst nahe kommt.

#### 6. Data protection

We are entitled to process data on the contractual partner received with regard to or in connection with the business relationship, irrespective of whether this data originates from the contractual partner himself or third parties, in terms of the German Data Protection Act. This notice shall replace the communication in accordance with the German Data Protection Act that personal data on the customer may be stored and further processed by means of IT.

## II. TERMS AND CONDITIONS OF SALE AND DELIVERY

### 1. Quotations, order confirmations and conclusion of the contract

Our quotations shall be non-binding and subject to change. Especially in case of extraordinary market conditions we keep the right to adjust prices, also of existing price lists communicated, on short notice.

Further we keep the right to adjust the prices set in contracts, order acknowledgements or other agreements if the delivery date or date service rendered is 3 months after entering into, if facing extraordinary market conditions.

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Documents enclosed with the quotation and the order confirmation, such as drawings, illustrations, information on weights and dimensions or other technical data, shall not be binding unless we expressly describe them as binding. Declarations of acceptance and all purchase orders must be confirmed by us in writing or telegraphically [e.g., by telex, fax or e-mail], in order to be legally valid. The same shall apply to additions, amendments or subsidiary agreements. The written confirmation can also be replaced by an invoice, in the event of immediate delivery. As used herein, “extraordinary market conditions” means any increase in the cost of materials caused by changes in the market or for any other reason that is outside of seller’s control such as tariffs, surcharges, increased logistics costs and fluctuations in currency and raw materials, which results in a price increase of the product price set forth in a contract, quote, purchase order or order acknowledgment.

## 2. Prices and costs of delivery

- a) All prices shall be quoted excluding packaging, carriage, postage and insurance, plus the respective rate of value added tax that is valid on the day of delivery, ex works.
- b) Orders within Germany in excess of 1000.00 euros net shall be delivered to the customer free of charge; export orders will be delivered ex works. The delivery shall be made without taxes and customs duties. The customer must bear the additional costs should express or urgent delivery be requested. In the event of deliveries to third parties on behalf of the customer, a processing fee of 25.00 euros shall be charged, plus any additional costs compared with delivery directly to the customer. Should the customer wish to collect the goods himself, this must be agreed in writing. Unless we specify a different place, the goods must be collected from our head office, at the customer’s expense, immediately after we have given notice that the goods are ready for collection. If the goods are not collected or are not collected on time or completely, we shall be entitled to store them at the customer’s expense and at his risk; the goods shall be deemed to have been delivered.
- c) The minimum order value shall be 1000 euros net. Orders below this amount can be carried out exceptionally and only on request of the purchaser. In this case we charge a markup for small-volume purchases which gears to the originating expenditures.

## 3. Period of delivery

- a) Delivery dates and periods shall be unbinding, unless something else has been expressly agreed in writing. The information about specific delivery periods and dates of delivery provided by us is subject to the proper and timely delivery by suppliers and manufacturers.
- b) Delivery periods shall begin with our order confirmation, but not before all the details about the performance are clarified and all of the other prerequisites which the customer has to fulfil are present. Deliveries shall be permissible before delivery period has expired; partial deliveries shall be permissible too.

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- c) Delays in delivery and performance on account of force majeure or other unforeseeable events that make delivery substantially more difficult or impossible for us and for which we are not responsible (such events include, in particular, war, warlike events, official orders, non-conferral of approvals for export, import or transit, national measures for the restriction of commercial traffic or other operational disruptions of any kind, disruption of traffic), irrespective of whether these events occur at our premises or those of our suppliers or sub-suppliers, shall entitle us to postpone the delivery or performance for the duration of the hindrance plus a reasonable start-up period or to withdraw completely or partially from the contract insofar as it has not yet been fulfilled. The period of delivery shall also be extended by the period by which the customer finds himself in default with the fulfilment of his contractual obligations.
- d) If the hindrance lasts for longer than 3 months, the customer shall be entitled to withdraw from the contract completely or partially insofar as it has not yet been fulfilled, after setting a reasonable grace period (at least 14 days). If the delivery period is extended by applying the provisions of clause 3.c) or if we are relieved of our obligation, the customer cannot derive any claims for compensation from this. We can only plead the aforementioned circumstances if the customer has been informed immediately.
- e) In the case of delivery contracts to be called off, if the customer does not call off the goods or does not call them off in time or if he does not allocate call-offs or does not allocate them in time, we shall be entitled, after having set a reasonable grace period without action on the part of the customer, to allocate call-offs ourselves and to deliver the goods in complete discharge of our obligations or to rescind that part of the delivery contract that is still outstanding.

#### 4. Inspection procedure

The customer must inform us if he wishes us to carry out necessary inspections, particularly an acceptance inspection certificate 3.1 in accordance with EN 10204:2004. The nature and scope of the inspection must be agreed when the contract is concluded. The inspection shall be carried out at the customer's expense.

#### 5. Deviations in dimensions, weight and quantity

Drawings, illustrations, dimensions and weights that are included in catalogues, quotations, advertising letters, etc., are only approximate. They are subject to commercial modifications at any time. Deviations of up to 10 per cent above or below the ordered quantity shall be admissible for custom-made products.

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## 6. Packaging

- a) The goods shall be packaged in line with commercial practice and the costs for this shall be charged at 2 per cent of the goods' value but at least 8 euros. The packaging shall be done free of charge in the case of deliveries where the goods' value is greater than 1000.00 euros net.
- b) We are free to choose the type of packaging, whereby this shall be done according to the rules of the packaging regulations. We wish to point out that we shall take back the transport packaging in the event of delivery free of charge (including carriage), but we shall not pay any disposal costs.
- c) The supplier reserves the right to charge for the costs that are incurred if Collico's transport containers, railway containers with special fittings, grid pallets, Euro pallets or wooden pallets are not given back within two weeks.

## 7. Dispatch

- a) The choice of the shipping method is at our discretion.
- b) We shall be left to choose the means of transport and transport routes in the absence of special instructions and to the exclusion of any liability.

## 8. Transfer of risk and transport insurance

- a) Risk shall be transferred to the customer when the goods to be delivered are handed over (whereby this will be determined by the beginning of loading process) to the transport company, freight forwarder or some other third party appointed to carry out the delivery. This shall also apply if we make part deliveries or have taken over other services (e.g. delivery or installation). The dispatch of the goods takes place at the customer's risk. We shall only take out a transport insurance policy at the customer's express request and at the latter's expense.
- b) If the despatch is delayed without fault on the part of the supplier, the risk shall pass to the buyer whom the supplier has notified about the readiness for dispatch or collection.

## 9. Return deliveries

In the event of the return of goods for which we are not responsible, we shall charge a fee of 20 per cent of the goods' value for putting the goods back into storage. The return delivery has to be made to us free of charge. Any carriage, packaging or postage costs or other incidental expenses that are incurred shall be borne by the redeliverer. The return shall only be allowed to be made after our express approval has been given in every case. It shall not be possible to take back goods with a value of up to 200 euros net.

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## 10. Terms of payment

- a) Our invoices must be paid within 10 days from the date of the invoice without any deduction.
- b) If the payment deadline is exceeded, interest shall be charged to the amount of the costs of credit charged by the banks, but at no less than 9 percentage points above the European Central Bank's base rate. Additional claims due to a default of payment shall not be affected by this.
- c) Notwithstanding contrary payment terms stipulated by the customer, we shall be entitled to offset payments against its oldest debt first. We shall inform the customer of the type of settlement which has been effected. If costs and interest have been incurred already, we shall be entitled to offset the payments against the costs first, then against the interest and finally against the main payment.
- d) Partial deliveries and partial performance can be invoiced separately.
- e) The customer shall not be withhold the purchase price on account of any counter-claims which do not originate from the present contractual relationship from the purchase price. Claims may only be offset against counter-claims that are either undisputed or have been established in law.
- f) If the terms of payment are not complied with, all of our claims, including those for which we have accepted bills of exchange, shall become due for payment immediately.
- g) If the customer does not comply with his payment obligations, or if he suspends payments or if a bank does not honor a cheque, we shall be entitled to withdraw from the contract as well as from any deferment agreements, after setting a grace period. Furthermore, we shall have the right to prevent the defaulting customer from being supplied further, even if corresponding supply contracts have been concluded.
- h) We are entitled to assign our claims.
- i) Our invoices must be paid without any charges for us. Any bank charges or other incidental expenses concerning monetary transactions shall be borne by the customer. An invoice shall only be deemed to have been paid when the equivalent value of the invoice amount has been credited to us in full.

## 11. Reservation of title

- a) All goods delivered (reserved goods) shall remain our property until all of our claims in connection with the business relationship, including future claims and irrespective of the legal reason, have been paid in full, even if payments have been made for specially designated claims. In the case of a clearing account, reservation of title will be considered security for our claim to the balance on the account. The reservation of title will also apply should reserve goods be re-sold and/or further processed. In the latter case, further

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processing shall take place behalf of us as the manufacturer.

- b) Provided he is not in arrears, the contractual partner may only re-sell the reserved goods in the ordinary course of business and subject to the proviso that his customers may not offset counter-claims against claims arising from the re-sale. The contractual partner shall not be entitled to dispose of the reserved goods in any other way, particularly not by transferring goods by way of security or by pledging the goods.
- c) Claims arising from the re-sale of the reserved goods shall be assigned to us as security with immediate effect until our claims (see a)) are paid in full. We accept this assignment as security with immediate effect. If the contractual partner has already arranged disposal of his future claims arising from the sale of his goods that might be contrary to the assignment to us as security (e.g. prior assignment as part of a factoring contract), the contractual partner's claim to payment from the beneficiary of the prior disposal (e.g. the factoring bank) shall be deemed to have been assigned to us as security in place of the claims arising from the re-sale of our reserved goods. The contractual partner is required to inform us immediately should he have disposed in advance of future claims arising in his business operations or in the event of any actual or pending contractual or other obligations that might impinge on our collateral rights.
- d) The contractual partner is entitled to collect claims arising from the re-sale until such time as we cancel this right, which we may do at any time. The sales proceeds collected from the re-sale of our reserved goods or the surrogates replacing them (e.g. in the case of factoring) will immediately become our property up to the relevant share of the invoice amount. This will not affect our right to collect the claim assigned to us ourselves should our payment conditions not be complied with. The contractual partner is required, at our request, to inform his debtors of the assignment to us and to provide us with the information required in order to enforce these claims. If third parties take compulsory enforcement measures affecting our collateral rights, the contractual partner must draw attention to our rights and inform us immediately.
- e) If the contractual partner falls into arrears with his payments, we shall be entitled, after setting of a reasonable grace period and without withdrawing from the contract, also to demand the return of the reserved goods at the expense of the contractual partner.
- f) The contractual partner's right to re-sell the reserved goods and to collect the resulting claims shall expire automatically, without the need to set a grace period, if conditions are present under which the contractual partner could apply for the opening of insolvency proceedings. If the contractual partner's right to re-sell the reserved goods ends, we may demand their return at the contractual partner's expense. In any case, the contractual partner must reimburse us for the additional carriage costs, dispatch and other expenses as well as any impairment in the value of the goods.

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- g) Any handling or processing of the reserved goods shall be carried out on behalf of us as the manufacturer, without any obligation on our part. If the reserved goods are combined or processed together with other goods that do not belong to us, we shall acquire co-ownership of the new goods in proportion to the invoice value of our goods to the invoice value of the other goods used. Processed goods or our co-ownership shares in these goods shall be considered reserved goods in terms of the sections above.
- h) If the value of our collateral exceeds our claims by more than 10 % on more than a temporary basis, we shall return an appropriate amount of this collateral, at our discretion, when requested to do so. This shall also happen if the estimated value of the collateral exceeds 150% of the secured claims.
- i) In international business transactions, the contractual partner must take any measures that are necessary in his home country for the protection of our reservation of title.

These shall include, for example:

- in Switzerland: cooperation in recording our reservation of title in the official register;
- in Austria: the registration of an extended reservation of title, specifying the purchase price claim in his books;
- in Spain: cooperation in the preparation of a notarial deed.

If a provision on the reservation of title comparable to that which is possible according to the law applicable at the registered office of our contractual delivery plant is not acknowledged in the contractual partner's home country (in particular due to the absence of laws permitting enlarged or extended reservation of title), we may demand a bank surety, bank guarantee or some adequate equivalent security equal to the corresponding order value of our deliveries of goods.

## 12. Warranty

- a) Our deliveries and services shall be provided according to contract. Whether the condition of the goods complies with contract shall be determined by their condition at the time of the transfer of risk.
- b) The warranty period shall amount to 1 year after delivery of the goods.
- c) The warranty shall be executed, in the first instance, by a repair or by a replacement delivery, in the event that the goods are defective.

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- d) The customer must notify us about any obvious defects in writing immediately or not later than 1 week after receipt of the delivered goods. Defects that cannot be detected even by careful inspection within this period, must be communicated to us in writing immediately, but not later than five working days after detection. Otherwise, the assertion of warranty claims shall be excluded. Timely dispatch [of the written notification] shall be sufficient for observance of the deadline. The customer shall bear the full burden of proof for all prerequisites of claims and especially for the defect itself, for the moment when the defect was established and for the punctuality of the customer's complaint about the defect.
- e) No new warranty periods shall come into force as a result of the exchange of parts, modules or whole machines. No warranty will be assumed for wear parts or for the improper use, storage or operation of equipment. Intervention by third parties shall entail the forfeiture of warranty claims.
- f) The customer can – at his discretion – demand a lowering of the remuneration [reduction] or a rescission of the contract [withdrawal] if 3 attempts at repair have failed. However, the customer shall have no right of withdrawal shall be vested in the customer when there is only a minor infringement of the contract, especially if there are only minor defects.
- g) If the customer chooses to withdraw from the contract because of a defect of title or quality, after a fruitless attempt at rectification, he shall be entitled to no claim to compensation because of the defect. If the customer chooses compensation after the fruitless attempt at rectification, the goods shall remain with him if this can reasonably be expected of him. The compensation shall be limited to the difference between the price and the value of the defective article. This shall not apply if the infringement of the contract has been caused maliciously.
- h) The customer shall not receive any guarantees in the legal sense. The manufacturer's guarantees shall remain unaffected by this.

### 13. Ban on Exports to Russia.

- a) If any Products are sold, supplied, or transferred to a buyer domiciled or located in a country outside the European Union which is not a partner country as defined in Annex VIII of Council Regulation (EU) No 833/2014, and if such Products fall within the scope of the prohibition not to sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation in terms of Article 12g Council Regulation (EU) No 833/2014, the Distributor must not sell, export or re-export, directly or indirectly, these Products to the Russian Federation or for use in the Russian Federation.
- b) In such a case the Distributor shall use best efforts to ensure that the purpose of Clause a is not frustrated by any third parties further down the commercial chain, including potential resellers.

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- c) The Distributor shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including potential resellers, that would have the potential to frustrate the purpose of Clause a.
- d) Each culpable breach of Clauses a, b or c shall constitute a material breach of contract. In this case, the Principal shall be entitled to:
- (i) rescind the sales contracts affected by the breach without prior warning in accordance with Sec. 323 para. (2) no. (3) BGB (German Civil Code); and
  - (ii) demand from the Distributor the payment of a reasonable contractual penalty to be determined by the Principal in accordance with Sec. 315 BGB (German Civil Code) (based on the Principal's equitable discretion) which shall be subject to judicial review by the competent court upon request of the Distributor
- e) In case of rescission by the Principal in accordance with Clause d, the Distributor shall be obliged to return to the Principal the Products affected by the rescission without undue delay and at its own expense.
- f) The Distributor shall immediately inform the Principal about any problems to comply with Clauses a, b or c, including any relevant activities by third parties that have the potential to frustrate the purpose of Clause a. The Distributor shall upon request provide the Principal within two (2) weeks with all information concerning its compliance with the obligations set out in Clauses a, b or c.
- g) [Additional language that generally prohibits the resale or re-export to or for use in the Russian Federation:

Moreover, even if a Product or a buyer does not fall within the scope of Council Regulation (EU) 833/2014, the Distributor must not sell, export or re-export, directly or indirectly, the Products to the Russian Federation or for use in the Russian Federation. In such a case Clauses b to f shall apply accordingly.]

Stand: 27.04.2024

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