

GENERAL TERMS AND CONDITIONS - TERMS AND CONDITIONS OF PURCHASE

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 direct average 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.

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.

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 overindebtedness 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.



4. Applicable law, place of fulfilment and 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.



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5. Partial invalidity

If individual provisions of these terms and conditions of delivery and payment are wholly or partially invalid, the validity of all the other provisions or agreements shall not be affected by this.

The provision which is wholly or partially invalid shall be replaced by a provision that comes as close as possible to the economic effect of the invalid one.

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 PURCHASE

1. Purchase orders/orders

a)

Unless our quotations expressly contain a binding period of time, we shall be bound by our quotation for 2 weeks from the date of the quotation. Whether the quotation has been accepted on time shall be governed by the date on which we receive the declaration of acceptance.

b)

Calculations, drawings, plans and other documents that also form part of the quotation shall remain our property. We shall retain the copyrights to these documents.

These documents may not be passed on to third parties without our written approval. These documents must be returned to us immediately if our quotation is not accepted in due time.



c)

We shall be entitled to change the time and place of the delivery, as well as the type of packaging, at any time by way of written notice issued at least seven calendar days prior to the agreed delivery date. The same applies to changes to product specifications, provided that these can be implemented as part of the supplier's normal production process without major additional expense, whereby in these cases the notice period in accordance with the above sentence shall be 14 calendar days. We shall reimburse the supplier for any proven and reasonable additional costs incurred as a result of the change. The agreed delivery date shall be postponed accordingly if such changes entail delivery delays that cannot be avoided with reasonable efforts in the supplier's normal production and business operations. The supplier shall provide us with a careful written estimate of the additional costs or delivery delays he anticipates in good time prior to the delivery date, at least however within five working days of receiving our information in accordance with sentence 1.



2. Prices and terms of payment

a)

The price stated in the purchase order shall be binding and shall apply free domicile, unless otherwise agreed in writing between the parties. The packaging costs shall be included in the price. The price is quoted including the respectively valid rate of value added tax. All invoices have to show the purchase order number that is given by us.

b)

We shall pay within 14 days of the delivery of the goods and receipt of invoice at a discount of 3 per cent, or within 30 days without a deduction, insofar otherwise agreed in writing. The bank's receipt of our transfer order shall be sufficient evidence of the punctuality of the payment owed by us.

c)

We shall be entitled to exercise the statutory rights of set-off and retention in full. We shall be entitled to assign all claims arising from the purchase contract without the supplier's consent. Subject to Section 354a of the German Commercial Code (HGB), the supplier shall not be entitled to assign claims arising from the contractual relationship to third parties without our prior written consent.

d)

All order confirmations, delivery papers and invoices must quote our order number, product number, quantity delivered and delivery address. If any of this information is missing and processing as part of our

normal business processes is delayed as a result, the payment periods referred to in b) shall be delayed accordingly.

3. Period of delivery and default of delivery

a)

The delivery periods or the date of delivery quoted by us in the purchase order shall be binding for the supplier.

b)

The supplier is required to inform us immediately in writing if circumstances occur or become apparent that will prevent compliance with the delivery period.

If the supplier is in default with the delivery, we shall be entitled to assert the statutory claims.

c)

If the delivery is delayed, we shall be entitled to demand lump sum compensation of 0.5% of the value of the delivery for each complete week of arrears, but no more than 5 per cent of the contractual price.

We reserve the right to assert further statutory claims. The supplier shall have the right to prove to us that no damage has arisen or that substantially less damage has arisen as a consequence of the default. The lump sum shall then be reduced accordingly.

d)

We shall be entitled to withdraw from the contract or to specify another delivery date and another place for the delivery, insofar as that is not impossible, in the event that the delivery is delayed or becomes impossible because of force majeure, strike, lock-out, etc., as well as because of the onset of other circumstances for which we are not responsible. The contractual partner must pay the additional costs that are incurred hereby.

e)

The supplier shall not be entitled to make part deliveries without our prior written consent.

4. Examination of defects

We are obliged to inspect the goods for defects within a reasonable period of time. The defect shall be deemed to have been reported in time if it is received by the supplier within 14 calendar days of the receipt of the goods. Hidden defects shall have been reported on time if the report is received by the contractual partner within 14 calendar days of their discovery.

5. Warranty/transfer of risk

a)



We shall be entitled to the statutory warranty claims unreduced.

b)

The period of limitation for warranty claims shall amount to 3 years from the date of delivery. The time limitation to which warranty claims are subject shall be suspended once the supplier has received our written notification of a defect, until the supplier either rejects our claims or declares the defect to be remedied or otherwise refuses to continue negotiations concerning our claims.

In the event that replacement goods are delivered or defects repaired, the warranty period for the replaced and repaired goods shall begin anew.

c)

Even if delivery has been agreed, the risk shall not be transferred to us until the goods are handed over at the agreed destination.



6. Security of title

a)

We retain or shall acquire title to parts or raw materials which we provide to the supplier. The supplier must clearly identify these goods as our property, store them safely, secure them from all kinds of damage at his own expense, in particular provide insurance cover against damage due to fire, water and theft, and only use them for purposes of the contract. The supplier must carry out necessary repair and maintenance work on these tools, in time and at his own expense.

The supplier must notify us immediately in writing of all damage to these objects that is not merely minor. He is required to return the goods to us in a proper condition when requested to do so if he no longer requires them in order to fulfil contracts concluded with us.

If an object provided by us in order to manufacture the goods to be delivered is inseparably mixed or combined with other objects that do not belong to us, we shall acquire co-ownership of the new object in proportion to the value of our goods to the other mixed or combined objects. If processing take place in such a way that the supplier's goods must be regarded as the main product, the supplier must transfer a share of ownership in this product to us in the same proportion.

b)

The supplier's reservations of title will only apply if they relate to our payment obligation for the products to which the supplier retains title. Enlarged or extended reservations of title shall not be permitted.

7. The seller's liability and insurance coverage

a)

If a third party makes a claim to compensation against us on account of product damage for which the supplier is responsible, the supplier has to exempt us on first request from all third-party claims, including the necessary costs for defending these claims. Responsibility on the part of the supplier has to be assumed in particular if the cause lies within his area of control and organization and he is also liable himself vis-à-vis third parties.

b)

In this context, the supplier is also obliged to compensate us for all the expenses and costs resulting from or in connection with a replacement campaign carried out by us. We shall inform the supplier about the content and extent of replacement measures that are to be carried out insofar as it is possible and reasonable to do so, as well as give him the opportunity of making a statement.

c)

The supplier is obliged to take out and maintain, at his own expense, a product liability insurance policy with a sum insured appropriate to the subject matter of the contract, at least 1 million euros per claim for damage to persons or property. Any further claims to compensation shall remain unaffected by this.

d)

If a third party makes a claim against us because the supplier's delivery infringes a statutory property right of a third party, the supplier shall undertake to exempt us on first request from the claims, including all requisite expenses that are incurred by us in connection with the claim by third parties and the defence of these in writing. This claim will apply irrespective of whether the supplier is to blame. Any additional legal claims on account of defects of title relating to the goods delivered shall not be affected. Claims shall lapse within three years of the date on which they were lodged against us by a third party.

We shall not be entitled to recognize third party claims and/or to make agreements with third parties regarding these claims, or both, without the contractual partner's written consent.

8. Secrecy

a)

The supplier is obliged to keep the terms and conditions of the order, as well as all information and documents provided for this purpose, particularly illustrations, calculations and drawings, secret for a period of at least two years from the date of the conclusion of the contract and only to use this information for the execution of the order. If requested, he is required to return this material to us immediately, once the order has been carried out.

b)

The supplier may not refer to the business relationship with us in advertising materials, such as brochures etc., or exhibit products manufactured for us without our prior written approval.

c)

The supplier must commit its own suppliers in accordance with a) and b).



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