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General Terms and Conditions of Sale and Delivery 2012

Updated: March

I. Application

These Terms & Conditions apply to all transactions

- 1) with individuals who act as part of their commercial or freelancer activity upon conclusion of the contract (entrepreneurs)
- 2) legal persons of public law or special funds under public law

II.

These General Terms & Conditions of Sale are designed for contracts which are not covered by the specific provisions of Sec. 474 et seq. of the German Civil Code (BGB) regarding the consumer goods purchase.

The Customer is obliged to inform us, if this cannot be excluded, that the goods that we deliver are delivered to consumers in the sense of Sec. 13 of the BGB. In such cases, we will be entitled to withdraw from the contract.

III. Conclusion of the Contract

1. For all agreements and offers with us, including in the future, only our Terms & Conditions provided below shall apply. Other conditions shall not become part of the contract even if we do not expressly object to them.
We are entitled to withdraw from the contract if the Customer objects to the application of our conditions of delivery.

2. Contracts can only be concluded through our written or electronically transmitted order confirmation. Until then, our offers are not binding. We can submit the order confirmation within 30 calendar days after receipt of the Customer's order. For the scope of delivery or performance, only this order confirmation shall prevail.

IV. Prices

1. Our prices are net and ex works. VAT will be charged separately at the rate applicable on the invoicing day. The prices are only valid for the specific order and are not binding for subsequent orders.

2. Packaging, loading, freight and insurance costs, as well as assembly and starting-up costs will be charged additionally.

Fees and charges for the provision and certification of origin certificates, consular invoices, approvals and the like will be invoiced separately to the Customer. Packaging and freight costs will be invoiced

at cost price. Rental pallets and empty packaging shall remain our property. The Customer must returned them to us cleaned and in perfect condition and pay the carriage. The Customer is allowed to return equivalent or similar pallets. If the above-mentioned return does not occur within one month after delivery, we will invoice the cost price. The rest of the packaging shall be disposed of by the Customer.

3. The prices agreed for an order remain binding vis-à-vis us for four months from the conclusion of the contract. If longer deadlines for performance of delivery or service are agreed, we are entitled to invoice a proportional surcharge for the cost increase, in the case of increase in material or labour costs, on the basis of our original price calculation.

V. Delivery and Performance

1. Delivery and performance periods and deadlines are only binding if they are confirmed as such in writing. Moreover, they shall be regarded as approximate and non-binding. A delivery period begins with the date of the order confirmation. Delivery or performance deadlines are fulfilled, if we notify within the agreed deadlines that the goods are ready for dispatch.
Appropriate part deliveries and customary or acceptable deviations from the orders are permitted.

2. The delivery period shall be extended by the period during which we were not supplied or not supplied in time.
The delivery period shall be adequately extended if the buyer does not comply with the agreed terms of payment or other contractual obligations.
The foregoing shall not apply if we are responsible for the delay.

3. If there is a delay in the delivery or performance because of unavoidable events that we did not foresee at the time the contract was concluded (e.g. operational disturbances, official interventions, shortage of raw materials, energy supply difficulties, labour disputes) that we could not prevent despite all the reasonable care to be applied under those circumstances, the delivery or service period shall be extended accordingly, with a maximum of two months. If the delivery is impossible for the above-mentioned reasons, we will be re-



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leased from the obligation to perform the delivery or the service. In this case, we will inform our contractual party of the impossibility of the delivery and reimburse any consideration already received.

4. Also in the case of certain calendar-related time of performance (Sec. 286 II, no. 1 and 2 of the BGB), we are only in default if the Customer gave us a deadline of two weeks, unless we previously refused the performance seriously and definitively. In the case of our wrongful delay, the Customer is entitled to request a contractual penalty of ½ % of the value of the respective part of the overall delivery which the Customer cannot use because of the delay - for each full week's delay, however not higher in total than 5% of that value. The right to assert further damage remains reserved. However, we are liable for the damage caused by delay and non-fulfilment only to the extent of twice the value of the order, unless we or our agents acted intentionally or with gross negligence. A contractual penalty to be paid shall be set off against the Customer's claim for damages.

5. In the case of delay in delivery, the Customer can only withdraw from the contract if we are responsible for the delay and if a reasonable grace period determined by us has elapsed.

6. If the Customer is in default of payment of any kind or if there is a deterioration of its financial situation which renders its capacity to pay doubtful, we are authorised to refuse all additional services and to request an advance payment. Such deterioration of the financial situation can be assumed, e.g. if bills of exchange or cheques are protested or the Customer has exceeded or would exceed, because of the intended delivery, a limit determined by a credit insurer. The same applies to the cases if the Customer did not make true statements about its creditworthiness. Further statutory rights (especially withdrawal) shall be reserved.

7. Deliveries are ex works. The risk of accidental loss and accidental deterioration shall be passed to the Customer as soon as the goods are handed over to the carrier, but at the latest when the goods leave the factory. If the dispatch is delayed for reasons for which we are not responsible, the risk shall be transferred upon the notification that the goods are ready for dispatch. Clauses such as "free delivery" or the like determine transport costs, but have no influence on the above rule regarding risk assumption.

When picking up the goods from the delivery point, the Customer or its agents are responsible for loading the vehicle and for the compliance with all provisions regarding the transport of dangerous goods. If our employees help with the loading, they

shall act as agents of the Customer and only at the Customer's risk.

8. In the case of call orders, we can set a 14-day grace period to accept the goods after the expiry of a six-month period from the order confirmation. We will then invoice the Customer for the non-accepted goods or services, as well as for reasonable storage fees or retention fees incurred before the acceptance, unless provided otherwise.

9. If the dispatch or handing over of the goods to the carrier is delayed at the purchaser's request by more than one month after notification of readiness for dispatch, we can invoice the goods and charge storage fees amounting to 0.5 % of the price of the delayed delivery for each commenced month, but in no case more than a total of 5% of the delayed delivery. The contractual parties reserve the right to a proof of higher or lower storage costs.

VI. Payments

1. Unless provided otherwise, the price for deliveries or other services is payable 30 days after the invoice date. For the timeliness of the payment, the unconditional credit to the bank account is decisive.

2. Bills of exchange and cheques are only accepted upon agreement with the Customer; the costs and expenses shall be borne by the Customer.

3. If the payment term is exceeded, the Customer shall pay default interest amounting to 8 percentage points above the respective base interest rate. The right to assert further damage remains reserved. The above shall not apply if the customer proves that it is not responsible for the delay. If the Customer is in default of payment, all claims shall immediately become due for payment unless the Customer proves that it is not responsible for the delay.

4. The Customer may only offset the claims in its own rights, which are deemed to be uncontested or legally established, against our claims. The Customer is entitled to a right of retention only with regard to the claims from the same contractual relationship which are deemed to be uncontested or legally established. In the latter case, the Customer may retain the payment for the delivery or service because of defects in part of the delivery, only to the extent of the value of the defective delivery or service.

VII. Retention of Title

1. We retain the right of ownership on all goods and services supplied by us until all claims, includ-



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ing future ones, against the Customer arising from the contractual relationship are settled. In the event of adjustment to the open account, the retention of title applies to the respective balance. The return of the goods does not mean any withdrawal from the contract. If the Customer is in default of payment, we are entitled to take the goods back without having to first withdraw from the contract. The goods will be credited with the actual proceeds, after deduction of the recovery and return costs.

The Customer is obliged to insure our property against fire, water, and theft.

The claims against insurer shall be transferred to us.

If, upon our request, the purchaser does not prove that it has taken out sufficient insurance, we will be entitled to insure the delivery item at the purchaser's cost against theft, breakage, fire, water and other damage.

2. The Customer shall inform us immediately in case of seizures, confiscations or other disposals or interventions by third parties.

3. The Customer may further process the goods in the ordinary course of business or sell them onwards under an agreement of a prolonged or extended retention of title. The Customer is not permitted to dispose of the goods otherwise. The Customer's right to process and sell the goods shall expire if the Customer does not comply with its payment obligations vis-à-vis us, or otherwise commits a serious breach of the contracts concluded, or suffers from a deterioration of its assets. Deterioration of assets means cessation of payments, over-indebtedness, application for the opening of insolvency proceedings, and any other serious change in the Customer's financial circumstances which can jeopardize our securities.

4. Any processing of the reserved goods by the Customer is deemed to be done for us. In the case of joint processing for multiple suppliers, we shall be entitled to joint ownership in accordance with Sec. 947 et seq. of the BGB.

If the Customer combines or mixes our item with its own item in such a way that the Customer's item is to be regarded as the main item, the Customer thus already transfers to us a joint ownership share in the main item, to the extent of the ratio of the value of our item to the value of the main item. Our joint ownership share remains in the possession of the Customer who stores this item for us.

5. The Customer already assigns to us a corresponding first-ranking partial amount of claims and ancillary rights arising from the goods resale, cor-

responding to our joint ownership share. The Customer is not entitled to arrange a prohibition of assignment.

In the case of partial payment by a debtor of the Customer, the claim assigned to us is deemed to be paid last.

The Customer is entitled to collect the assigned claims in the ordinary course of business. This right shall expire in the cases referred to in VII 3. The Customer shall then be obliged to participate in the collection of claims.

6. Upon the Customer's request, we undertake to release securities of our choice to which we are entitled according to the foregoing provisions, if their realisable value exceeds the total claim to be secured by more than 20%.

VIII. Warranty

1. We guarantee that the goods delivered by us are free from material defects or defects in title which would significantly impair the intended use of the goods. The compliance of the delivered products with the contract is measured on the basis of the respective contractual description of the products and their purpose given in the contract that we concluded with our Customer, of our product descriptions and our processing guidelines and notes for use. Minor changes to the goods' structure, form and design and to the rates stated in the description, as well as minor changes to our service shall be accepted by the Customer, provided that they are reasonable and concern quality, quantity or performance tolerances usual in the trade. We only deliver assembly instructions with an appropriate written agreement.

2. Information published by us as a text or drawing, e.g. in catalogues, descriptions, illustrations and drawings, as well as dimension, weight, and performance information merely describe our products' quality and do not represent any warranty as to properties or guarantees.

We cannot rule out that errors (printing errors) may occur in our product descriptions and catalogues.

We make all efforts to avoid such errors and to correct them as soon as we are aware of them.

Our employees, commercial agents or other sales intermediaries are not authorised to declare any guarantees and warranties.

Presenting a template or a sample does not by itself mean giving any guarantee or warranty.

We reserve the right to make changes to technical data and structures for the purpose of technologi-



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cal progress.

3. All details and information about the suitability and application of our products are non-binding and do not release the Customer from its own examination and test.

4. Warranty claims shall not apply if the defects occurred because of non-compliance with our processing instructions or product descriptions, or of faulty or negligent handling, or faulty or inappropriate storage, inappropriate or improper use, faulty mixture or assembly, excessive use, or use of unsuitable resources after the transfer of risk, or as a result of impairments caused by special external influences occurring after the transfer of risk, which were not considered in the contract. Warranty claims are excluded if the customer itself or a third party made repair work that was not an absolute necessity.

5. If the contractual party refers to a public representation to invoke a defect, particularly in the advertising, it should also prove that the statements made in this public representation were the reason for its purchase decision.

6. The contractual party is also obliged to accept the delivery/service, if the goods only have insignificant defects.

7. Obvious defects must be notified in writing, at the latest within one week from the date of delivery. Hidden defects shall be notified by the contracting party in writing no later than one week after their discovery. The contracting party is obliged to send us a detailed written description of the defect that it invokes. If such complaint is not submitted or was sent too late, the contractual party will lose its rights to raise a claim for the existing defect of the purchased goods.

Any processing of a complaint for defect by us, also including the inspection of the goods after their return by the contractual party, shall in no case mean that the contractual party is no longer obliged to comply with the rules of notice of defects.

8. In the case of a defect, we are, in the first place, entitled to either remedy the defect or to deliver an item without defect, at *our will* (Remedial Actions, Sec. 439 of the BGB). In the case of remedial action, we are obliged to pay all expenses required for its purpose, in particular, transport, travel, labour, and material costs, as far as such costs are

not increased by the fact that the goods are brought to a place other than the place of delivery. The Customer shall return the goods subject to the complaint to us only upon our request and, where necessary, in good packaging and with an enclosed packing slip, in which the order number is stated.

9. We can reject the remedial action, if it requires disproportionately high costs. This is particularly the case if

- the expenses associated with the removal of the defect are likely to exceed 100% of the market value of the purchased item;
- in case of remedial action, the costs of the replacement purchase by us is likely to exceed 150% of the market value of the purchased item.

The residual statutory rights of the Customer (reduction, withdrawal, damages, reimbursement of wasted expenses) shall remain unaffected.

10. Unless provided otherwise by law, the Customer is obliged to give us a reasonable grace period in the first place for the remedial action, before it can assert other warranty rights. This grace period is usually at least 2 weeks for the purposes of remedial action; this shall not apply if another period is contractually agreed in individual cases or if a shorter period is imperative, e.g., in urgent cases, in which there is a risk of disproportionately large damage or of operational safety. If the remedial action is not carried out within that period, the Customer is entitled to assert its statutory rights, especially to withdraw from the contract, to claim a price reduction or (under the conditions laid down under Number X.) to request damages. A grace period is not necessary if we have ultimately and seriously refused the remedial action or if the remedial action is impossible.

11. Withdrawal from the contract is excluded if the purchased item only has minor defects. There are minor defects in particular if there are merely insignificant deviations from the contractually agreed properties or insignificant impairment of the usability of the goods specified in the contract.

12. The contracting party may request damages in lieu of performance only if the delivery of the defective item means a significant breach of duty.

13. Damages by reason of any subsequent damage, that occur independently from any remedial action (e.g. production failures, loss of profit, claims due to late delivery to the Customer's clients, etc., Sec. 280 of the BGB), can only be asserted if an appropriate grace period set in writing fruitlessly expires. Otherwise, damages shall be



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governed by Number X.

14. The warranty period is 12 months from the delivery or the agreed acceptance of the purchased item. The warranty for work carried out in terms of the remedial action or delivered spare parts only applies until the expiry of the warranty period for the original delivery.

15. If the grace period expires without success, we have the right to ask the Customer to state us its further warranty rights within a period of 1 month. If the Customer does not issue such a statement within this period, its warranty rights will be excluded; however, this only applies if we explicitly pointed out such legal consequences in our request setting a deadline.

16. The contractual party can hold us liable for product faults by reason of which its clients incur its liability, only to the extent that it did not enter any agreements with its clients which go beyond the domestic legal provisions, in particular, with regard to warranty liability. In these cases, the above provisions shall apply accordingly to the scope of our warranty liability vis-à-vis the contractual party.

If the goods delivered by us are supplied to a consumer through a supply chain contradict the provisions of Number II, the respective mandatory statutory provisions shall apply. We are not liable in the sense of Sec. 478 and 479 of the BGB, if our Customers supply the goods abroad; the UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply in such cases.

IX. Legal Defects

1. We are liable for the delivery of products that are free from defects within the scope of legislation.

We warrant that the products delivered by us do not infringe any property rights or copyrights of third parties only with respect to the country in which we have our registered office (domestically), unless provided otherwise.

We are not liable to the extent that the infringement of such property rights is based on instructions that the Customer has provided or to the extent that the breach is caused by unauthorized modifications of the product by the Customer.

2. The contractual party shall inform us immediately, as soon as third parties assert a breach of property rights.

If the contractor does not provide this information, its warranty claims will be excluded.

3. Sec. VIII. 14 shall apply accordingly for the warranty.

4. If within the warranty period a third party asserts justified claims, we may, at our will and at our own costs, obtain a right of use for the respective deliveries or change our deliveries under consideration of the contract purposes, such that property rights are not breached, or deliver comparable products that do not breach the property rights.

5. A warranty claim of the contractual party is excluded, if the contractual party itself starts negotiations with the third party or concludes agreements with it without our consent.

X. Damages

1. Regardless of the legal reasons, we are liable for damages only

- If we, our legal representatives or our agents acted intentionally or with gross negligence;
- If we or the aforementioned persons acted with slight negligence under the conditions set out in para. 2;
- If we gave guarantees, for their fulfilment of these guarantees within the agreed scope; guarantees (see VIII 2) must be made in writing and must be expressly designated as such;
- in the case of injury to life, limb and health,
- in the event of other mandatory statutory liability (e.g. product liability law, environmental liability law, etc.)

2. In cases of slight negligence, regardless of the legal basis, we are liable (except in the cases referred to in para. 1) for damages only in case of breach of essential contractual obligations. Essential obligations are obligations whose fulfilment is essential for a proper execution of the contract in the first place and on the fulfilment of which the contractual party may ordinarily rely. Our duty to perform our contractual obligations without any defect is not a contractual obligation in this sense.

In the case of slightly negligent breach of essential contractual obligations, our liability is limited to the replacement of the typical, foreseeable damage. Prior to the conclusion of the contract, the Customer is obliged to inform us in writing about of specific risks, atypical possibilities of damage and unusual amounts of damage.

The liability for any consequential damage in excess, lack of economic success, indirect damage, and damage arising from third-party claims shall be excluded.



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3. If the subject matter of the contract of sale is solely an object defined by its product class, our liability shall also be exclusively determined in accordance with the foregoing rules. Liability independent of fault shall be excluded.

4. The above provisions regarding liability also apply to legal claims of the Customer for the reimbursement of expenses, as well as for the personal liability of employees, workers, collaborators, representatives, and agents.

XI. Exclusion Period and Limitation Period

1. The limitations period for contractual claims shall likewise apply to all non-contractual claims of the Customer against us which are concurrent with contractual claims. As far as the claim is not already prescribed, a cut-off period of six months shall be applicable for claims for damages as from our rejection of the damages; the cut-off period shall not apply in the cases defined in X. No. 1. 1. Notwithstanding any further statutory provisions, the suspension of the statute of limitations period shall also end if the negotiations triggering the suspension are not continued for more than four weeks in this case. A restart of the period of limitation for the Customer's claims always requires our explicit written approval.

XII. Other Rights and Obligations

In any case of a violation of duties relating to protection and consideration in terms of Sec. 241 Para. 2 of the BGB that we are accountable for, that are not directly related to the delivery of the goods, the Customer is entitled to claim for damages and to exercise its right of withdrawal only if it previously gave us a written notice with an appropriate period with respect to the breach of the duty.

Such warning is not required, insofar as we or our representatives or agents act deliberately or with gross negligence or in the case of injury to life, limb or health.

XIII. Property Rights

1. For all documents, objects and the like handed over to us for the purpose of delivery or service, the Customer shall warrant that no property rights of third parties are hereby breached. We will point out the Customer to third-party rights of which we are aware. The Customer shall release us from any claims by third parties and compensate us for any damage resulting therefrom. If a third party prohibits us to perform, manufacture or deliver the goods with reference to its property right, we will be entitled - without checking the legal position -

to stop our work and request the reimbursement of our expenses.

Documents, items and the like given to us which are not part of the order can be sent back upon request, against reimbursement of costs. Otherwise we are entitled to destroy them three months after submission of the offer.

2. We reserve the property rights and copyrights to all samples, models, drawings, cost estimates, calculations and similar information of a tangible or intangible nature, also in electronic form. It is prohibited to make such information accessible to third parties. If the contracting party receives such information in connection with the initiation of the contract, it will be obliged to return this information to us at its own expense, if no contract is concluded.

The contracting party is obliged to only make available to third parties all information, which we expressly designated as confidential, with our express consent.

XIV. Final Provisions

1. All orders placed with us shall be governed by German law.

The application of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.

2. All contractual and non-contractual disputes arising out of or in connection with the contracts subject to these General Terms and Conditions of Sale shall be ultimately settled in accordance with the rules of arbitration of the German Institution of Arbitration (Deutsche Institution für Schiedsgerichtsbarkeit, DIS), to the exclusion of ordinary legal process. The arbitral tribunal shall consist of three arbitrators or of a single arbitrator if the dispute value is less than € 5,000.00. The place of arbitration is Stuttgart and the language is German.

We are however also entitled to bring an action before the national courts. In such cases, our headquarters are determined as the place of jurisdiction. We are furthermore entitled to bring an action against our Customer at its general place of jurisdiction.

3. The place of performance, payment and fulfillment for all obligations arising out of the legal relationships with the Customer is the place of delivery. Arrangements on who shall bear the costs have no influence on the above-mentioned place of



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fulfilment.

4. Should individual provisions of these conditions of delivery be or become invalid, the validity of the remaining provisions remains unaffected.

5. The data required to process the business transactions will be stored by us at our central location.