

## General Terms and Conditions of Business and Delivery

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### § 1 General – Scope of application

- (1) Our Terms and Conditions of Sale shall apply exclusively; we do not recognise any conditions made by the customer that conflict with or deviate from our Terms and Conditions of Sale unless we have explicitly agreed to their validity in writing. Our Terms and Conditions of Sale shall also apply if we carry out delivery to the customer without reservation despite knowledge of terms or conditions put in place by the customer that conflict with or deviate from our own Terms and Conditions of Sale.
- (2) All agreements made between us and the customer for the purpose of executing this contract are set out in writing in this contract.
- (3) Our Terms and Conditions of Sale shall only apply towards businesses (“Unternehmer”) in the sense of Section 310 paragraph 1 BGB (German Civil Code).

### § 2 Offer – Offer documents

- (1) If the order is to be qualified as an offer (“Angebot”) in accordance with Section 145 BGB, we can accept it within two weeks.
- (2) We reserve copyright and ownership rights over illustrations, drawings, calculations, and other documents. This shall also apply to written documents labelled as “confidential”. Before disclosing these to third parties, the purchaser requires our express written permission.

### § 3 Prices – Terms of payment

- (1) Unless otherwise specified in the order confirmation, our prices are “ex works” excluding packaging, which will be invoiced separately.
- (4) The statutory value added tax is not included in our prices; it will be listed separately in the invoice at the applicable rate on the day of invoicing.
- (5) The deduction of a discount requires special written agreement.
- (6) Unless otherwise specified in the order confirmation, the purchase price is payable net, without deduction, within 14 days of the invoice date. The consequences of default of payment shall be governed by the statutory provisions.
- (7) The customer shall only be entitled to offset payment if its counterclaims are legally justified, undisputed, or recognised by us. In addition, the customer is authorised to exercise a right of retention only to the extent that the counterclaim is based on

the same contractual relationship.

### § 4 Delivery period

- (1) The start of the delivery period specified by us is subject to the clarification of all technical questions.
- (2) Compliance with our delivery obligations also requires the timely and proper fulfilment of the customer's obligations. The objection of a non fulfilled contract remains reserved.
- (3) If the customer is in default of acceptance or culpably breaches other obligations to cooperate, we shall be entitled to demand compensation for the damages arising, including any additional expenses. Further claims or rights are reserved.
- (4) If the conditions of paragraph (3) apply, the risk of accidental destruction or deterioration of the purchased item shall be transferred to the customer at the point in time when the customer is in default of acceptance, or its payment deadlines expires.
- (5) We shall accept liability in accordance with the statutory provisions to the extent that the underlying purchase contract is a transaction for delivery by a fixed date within the meaning of Section 323 paragraph 2 No. 2 BGB or Section 376 HGB (German Commercial Code). We also accept liability in accordance with the statutory provisions if, because of a default of delivery for which we are responsible, the customer is entitled to assert that its interest in the further fulfilment of the contract has ceased to exist.
- (6) We shall also accept liability in accordance with the statutory provisions if the cause of the default arises from malicious intent or gross negligence on our part; any fault on the part of our representatives or vicarious agents shall be attributed to us. If the cause of the default arises from our own grossly negligent breach of contract, our liability for damages shall be limited to the foreseeable damages typically arising.
- (7) We shall also be liable in accordance with the statutory provisions if a default of delivery we are responsible for arises because of a culpable breach of an essential contractual obligation; in this case, the liability shall be limited to the foreseeable damages typically arising.
- (8) Further legal claims and rights of the customer remain reserved.

### **§ 5 Transfer of risk, packaging costs, return of goods**

- (1) Unless otherwise specified in the order confirmation, "ex works" delivery is agreed.
- (2) Special conditions shall apply to the return of packaging.
- (3) Special components and pipe lengths cut to customer order are generally excluded from return.
- (4) If the customer wishes, the delivery can also be covered by transport insurance; the costs incurred in this respect shall be borne by the customer.

### **§ 6 Liability for defects**

- (1) Claims for defects on the part of the customer require that the customer has properly fulfilled its obligations to inspect the goods and give notice of defects in accordance with Section 377 HGB.
- (2) If there is a defect in a purchased item, the customer shall be entitled to choose between subsequent fulfilment in the form of rectification of the defect or the delivery of a new, defect-free item. In the case of rectification of defects or replacement delivery, we shall be obliged to bear all the costs necessary for subsequent fulfilment, in particular transportation, travel, labour and materials costs, as long as these are not increased by the purchased item having been brought to another location than the place of fulfilment.
- (3) If the customer has incurred costs within the scope of subsequent fulfilment in accordance with the nature of the purchased item and its respective contractual purpose for dismantling and installation as well as for attaching the purchased item to another item, we shall be obliged to reimburse the customer for the expenditure arising. However, this shall only apply if the defects were not apparent at this time or were not discovered as a consequence of gross negligence by the customer.
- (4) If subsequent fulfilment fails, the customer shall be entitled, at its own discretion, to demand withdrawal or a reduction in price.
- (5) We shall be liable in accordance with the statutory provisions if the customer asserts claim for damages arising from malicious intent or gross negligence, including malicious intent or gross negligence on the part of our representatives or vicarious agents. If no intentional contractual violation is charged against us, our liability for damages shall be limited to the foreseeable amount typically arising.
- (6) We shall be liable in accordance with the statutory

provisions if we culpably violate an essential contractual obligation; in this case too, however, our liability for damages shall be limited to the foreseeable damages typically arising.

- (7) If the customer is otherwise entitled to compensation in lieu of performance due to a negligent breach of duty, our liability shall be limited to compensation for the foreseeable damages typically arising.
- (8) Liability for culpable injury to life, limb or health remains unaffected; this also applies to mandatory liability under the German Product Liability Act.
- (9) Unless otherwise agreed above, no liability is accepted.
- (10) The limitation period for claims for defects is 24 months calculated from the point of transfer of risk. This shall not apply if the purchased item is normally used in a building and has caused the defect.
- (11) The statutory regulations regarding the limitation period in case of delivery recourse in accordance with Section 445b BGB remains unaffected.

### **§ 7 Joint and several liability**

- (1) Any further liability for damages than that provided for in Section 6 is not accepted, regardless of the legal nature of the asserted claim.  
This applies in particular to claims for damages resulting from culpa in contrahendo, other breaches of duty or claims under tort for compensation for material damage in accordance with Section 823 BGB.
- (2) The limitations of paragraph (1) shall also apply if the customer demands compensation for useless expenditures instead of a claim for damages in lieu of performance.
- (3) If our liability for damages is excluded or limited, this shall also apply to the personal liability for damages of our staff, employees, workers, representatives and vicarious agents.

### **§ 8 Installation**

For the provision of fitters, the rates and conditions for personnel and equipment hours and material units listed in the installation price list shall apply, which can be sent on request. The current version of the Terms and Conditions of Installation shall form an integral part of these General Terms and Conditions of Sale.

### **§ 9 Retention of title**

- (1) We retain ownership of the purchased item until all payments arising from the delivery contract have been received. In the event of behaviour contrary to

the contract on the part of the customer, in particular default of payment, we shall be entitled to reclaim the purchased item. If we take back the purchased item, this shall constitute a cancellation of the contract. After taking back the purchased item, we shall be entitled to sell it; the proceeds from the sale are to be deducted from the customer's liabilities – less reasonable liquidation costs.

- (2) The customer is obliged to treat the purchased item with care; in particular, the customer is obliged to insure it adequately at its own expense against fire, water and theft at replacement value. If maintenance and inspection works are required, the customer must carry them out in good time at its own expense.
- (3) In the event of seizure or other intervention by third parties, the customer must notify us immediately in writing so that we can raise objection in accordance with Section 771 ZPO (German Code of Civil Procedure). If the third party is not able to reimburse us for the judicial and extrajudicial costs of an action in accordance with Section 771 ZPO, the customer shall be liable for the losses incurred by us.
- (4) The customer shall be entitled to resell the purchased item as part of ordinary business transactions; however, the customer hereby assigns to us all claims in the amount of the final invoice amount (including VAT) arising from the resale against its own customers or third parties, regardless of whether the purchased item has or has not been resold with further modifications. The customer shall remain authorised to collect these claims even after the assignment. Our authorisation to collect the claims ourselves remains unaffected by this. However, we undertake not to collect the claim as long as the customer fulfils its payment obligations from the proceeds received, is not in default of payment and, in particular, if no application has been made for the opening of insolvency or composition proceedings and payments have not been suspended. If this is the case, however, we can demand that the customer discloses to us the assigned claims and their debtors, gives us all the information required for collection, hands over the relevant documents and informs the debtors (third parties) of this reassignment.
- (5) Any processing or remodeling of the purchased item by the customer shall always be carried out on our behalf. If the purchased item is processed using other items not belonging to the us, we shall gain co-ownership of the new item in proportion to the value of the purchased item (final invoice amount

including VAT) compared to that of the other processed items at the point of processing. The same shall apply to the object created through processing as to the purchased item delivered under retention of ownership.

- (6) If the purchased item is inseparably combined with other items not belonging to us, we shall gain co-ownership of the new item in proportion to the value of the purchased item (final invoice amount including VAT) compared to that of the other combined items at the point of combination. If the mixing takes place in such a way that the customer's item can be regarded as the main item, it shall be deemed agreed that the customer transfers proportional co-ownership to us. The customer shall keep the resulting sole ownership or co-ownership on our behalf.
- (7) To secure our claims against the customer, the customer shall also assign to us the claims against a third party arising from the combination of the purchased item with a property.
- (8) We undertake to release the securities to which we are entitled at the request of the customer to the extent that the realisable value of our securities exceeds the claims to be secured by more than 10%; the selection of the securities to be released is incumbent on us.

#### **§ 10 Place of jurisdiction – Place of fulfilment**

- (1) If the customer is a merchant ("Kaufmann"), the place of jurisdiction is our registered office; however, we are also entitled to sue the customer at the court of its place of residence.
- (2) The law of the Federal Republic of Germany shall apply. The provisions of the UN Convention on Contracts for the International Sale of Goods do not apply.
- (3) Unless otherwise specified in the order confirmation, our registered office is the place of fulfilment.