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## **1 Scope**

- 1.1 The following terms of supply ("Terms") apply in business dealings with companies, unless expressly agreed otherwise. As part of an ongoing business relationship, the Terms will also apply without the express notification thereof by the user ("Supplier") in each case. A business customer is a merchant, a legal person governed by public law, or a special entity governed by public law (any natural or legal person or legal entity) which pursues commercial activity by concluding a contract.
- 1.2 The Supplier hereby expressly rejects all business terms of the contractual partner ("Purchaser").

## **2 Offers, documentation and commercial property rights**

- 2.1 These terms and conditions only apply if the Purchaser is a business customer. Consumers are not accepted as contractual partners. The Purchaser is regarded as consumer if the purchased goods and services are not appropriated to the commercial activities of the Purchaser. The Supplier is entitled at any time to demand convincing evidence of the entrepreneurial status of a Purchaser.
- 2.2 Unless expressly stated as binding, Supplier offers on the b2b-onlineshop are always to be understood as subject to change and only as an invitation to submit an offer.
- 2.3 Unless expressly stated as binding in the offer documentation of the Supplier, the industry-standard approximations apply to all technical data, materials specifications, etc. If the Supplier makes changes to the production method or the product that do not affect compliance with the industry-standard approximations, it will only notify the Purchaser when a quality guarantee is affected.
- 2.4 All documentation made available to the Purchaser and provided by the Supplier will remain the property of the Supplier; it may not be made accessible to third parties without the prior written consent of the Supplier and must, if the order has not been placed with the Supplier, be returned in full without delay, including any copies made thereof.
- 2.5 All product information available in the b2b-onlineshop such as must be checked for suitability by the Purchaser regarding the planned application before they are adopted and used. This also applies to selecting suitable materials. The Purchaser must find out about the possible uses of the product.
- 2.6 The Supplier is not obliged to check information and/or specifications of the Purchaser to ensure they are correct and/or legally compliant, in particular with regard to property rights infringements; this is the sole responsibility of the Purchaser.
- 2.7 Assurances from or additional agreements with employees of the Supplier must always be confirmed in writing by the Supplier if they go beyond the written contract. Sentence 1 does not apply to verbal agreements and assurances made by the Supplier or an authorised representative.
- 2.8 Adequate remuneration must be given for sample copies of a product requested by the Purchaser.

## **3 Orders**

Orders are deemed accepted if the Supplier confirms them in writing or via e-mail or executes them immediately after receipt of the order.

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## **4 Delivery time and scope**

- 4.1 Delivery time starts when the contract is concluded and ends with dispatch or upon notification that the goods are ready for dispatch. Compliance with the delivery time is conditional on the Purchaser complying with its obligations, especially any payment obligations.
- 4.2 Changes requested on the part of the Purchaser allow the delivery time to recommence with the date of the amended order confirmation of the Supplier.
- 4.3 Delivery times will be reasonably extended in the event of force majeure and similar events not attributable to the Supplier or not foreseeable, such as the rejection of official permits, operational disturbances, labour disputes, transport disturbances, accidental delay in the self-delivery of supplied parts, etc. insofar as such obstacles are shown to impact delivery significantly. Sentence 1 does not apply if the Supplier is already behind schedule in delivering the product.
- 4.4 Changes in the burden of proof to the disadvantage of the Purchaser are not associated with these provisions.
- 4.5 The Purchaser reserves the right to withdraw after a reasonable period granted to the Supplier has expired to no effect.
- 4.6 Partial deliveries are permitted provided they are reasonable for the Purchaser.
- 4.7 Annual or call-off orders that provide for a specific quantity must be accepted by the Purchaser in full within the agreed period; if no timescale is agreed, the agreed quantity must be called off within one year of the contract being concluded.

## **5 Place of delivery, transfer of risk**

- 5.1 The product is delivered from the production site or warehouse of the Supplier at the expense and risk of the Purchaser.
- 5.2 On delivery, even if the delivery is agreed as free of charge for the recipient, the risk in respect of the product passes to the Purchaser upon handover of the products to the Purchaser, the freight forwarder or carrier, but no later than when the product leaves the factory or warehouse of the Supplier.
- 5.3 If delivery is delayed at the request or through the fault of the Purchaser, the product is then stored at the Purchaser's own expense and risk. In this event, notification of the goods being ready for dispatch is considered equivalent to actual delivery. The risk passes to the Purchaser at the time when the Purchaser is in default of acceptance.

## **6 Export**

Shipments and services (the fulfilment of contract) shall be under the proviso that fulfilment is not being restricted by any national or international regulations, particularly export control regulations and embargoes or any other restrictions. The contract partners shall obligate themselves to provide all information and documentation needed for the export/ domestic shipment/ import. Delays caused by export checks or licensing procedures shall override any lead times or deadlines stipulated. If any required licenses for certain items cannot be obtained, the contract shall be considered as not concluded regarding the items in question; because of this and of above-mentioned transgression of deadlines, any claims for damages shall be excluded.

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## **7 Prices**

All prices are in EUROS and ex works plus Costs for freight, for packaging and for insurance as well as the applicable statutory VAT in each case. Prices for export deliveries are increased by custom duties and all fees and public fees.

## **8 Payment**

- 8.1 The invoice amount is payable in EUROS within 30 days after the due date without deductions and free of expenses, unless otherwise agreed. The decisive date for the payment is the receipt of the goods by the Purchaser. If there is no full payment on or before the due day for payment, interest will accrue on the amount unpaid, 8% per annum above current base rate pursuant to Article 247, para 1 of the German Civil Code (BGB) until payment in full is made. This is not affecting any other rights and remedies for further damages. The Purchaser bears the risk and cost of the payment process.
- 8.2 The right of retention or set-off may only be exercised by the Purchaser in the case of undisputed or legally established claims.
- 8.3 The Supplier shall be entitled to invoice the Purchaser for payment in advance or to carry out outstanding deliveries only against provision of security, if circumstances impact negatively on the Purchaser's credit-worthiness and endanger the payment of outstanding receivables, and if those circumstances have already existed at the time of conclusion of the contract but only have become known subsequently.

## **9 Liability for material defects**

- 9.1 The Purchaser will check the goods for defects immediately after receipt. Obvious defects must be reported to the Supplier in writing within five working days of receipt, hidden defects within five days after they are detected.
- 9.2 If a defect is reported in good time, the Supplier will remedy – several times if necessary – the defect in a reasonable timeframe based on the technical complexity of the product, an opportunity that will be granted to the Purchaser. The Supplier is entitled to decide on the type of remedy, taking into account the interests of the Purchaser (replacement delivery of a faultless product, or improvement).
- 9.3 If the remedy fails, the Purchaser is entitled, at its discretion, to withdraw from the contract or demand that payment be lowered (reduction).
- 9.4 For defects that were detected by the Purchaser prior to installation or processing, or that could have been detected with reasonable effort, all claims arising from material defect liability will be void as soon as the product is installed or processed. This does not apply if the Supplier, its executive employees or its agents are held culpable of intent, gross negligence or loss of life, physical injury or health impairment, if there is liability for breach of an essential contractual obligation within the meaning of Section 9.1. or if liability under the Product Liability Act (ProdHaftG) is mandatory.
- 9.5 The Supplier offers no guarantee for a predetermined service life of products, especially under difficult or unknown operating conditions. Claims in the event that the product supplied malfunctions prematurely are excluded insofar as they are based on difficult or unknown operating conditions.
- 9.6 Liability for material defects that do not impair or only insignificantly impair value or usability is also excluded.

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- 9.7 Material defect claims expire by limitation after 12 months following commissioning, but no later than 15 months following the transfer of risk. Sentence 1 does not apply if, due to a material defect, compensation is demanded for an intentional or grossly negligent breach of duty by the Supplier or an agent or due to loss of life, physical injury or impairment of health. Sentence 1 also does not apply insofar as Article 438, para 1, no. 2 or Article 634a, para. 1 no. 2 of the German Civil Code (BGB) stipulates extended timeframes.
- 9.8 Recourse claims pursuant to Articles 478 and 479 of the German Civil Code exist only if the consumer was entitled to make the claim and only in accordance with the law, but not for goodwill provisions not agreed with the Supplier. Recourse claims are conditional on the party entitled to exercise recourse claims meeting its own obligations, in particular complying with the duty to report defects.

## **10 General limitation of liability**

- 10.1 The Supplier is liable under statutory provisions insofar as the Purchaser asserts claims for damages based on intent or gross negligence of the Supplier or by its management personnel or vicarious agents. Under statutory provisions, the Supplier is also liable for meeting essential contractual obligations. Essential contractual obligations refer to obligations that must be met in order to ensure the proper execution of the contract and compliance with which the contracting party regularly relies on and may regularly rely on. Unless the Supplier, its managing personnel or vicarious agents are held culpable for intent or gross negligence, liability for damages is limited to foreseeable damage typically occurring with contracts of this kind.
- 10.2 Liability for negligent loss of life, physical injury or impairment to health is also not affected by Section 9.1.
- 10.3 Claims for damages, regardless of the legal reason, which extend beyond the claims for damages set out in Sections 9.1 to 9.2 are excluded. This also applies if the Purchaser demands reimbursement for futile expenditure instead of claiming damages.
- 10.4 If the Purchaser provides material for manufacturing products ordered by it, this material will be insured with the Supplier against theft only. Liability for destruction, loss or deterioration of such material exists only in cases of intent or gross negligence of the Supplier.
- 10.5 The statutory provisions relating to the burden of proof remain unaffected.

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## **11 Retention of title**

- 11.1 The delivered product (hereafter the Retained Product) remains the property of the Supplier until full payment of all outstanding liabilities that the Supplier has or acquires in the future from a business relationship with the Purchaser, as well as those from contracts concluded simultaneously or at a later date.
- 11.2 If the Retained Product is processed into a new moveable asset, such processing is carried out for the Supplier, without any resulting obligations on the Supplier as a result. The new asset becomes the property of the Supplier. If the Retained Product is processed together with products not belonging to the Supplier, the Supplier acquires co-ownership of the new asset in the ratio of the invoice value of the Retained Product to the values of the other products at the time of processing as well as to the processing value. If, in accordance with Articles 947 and 948 or the German Civil Code, the Retained Product is combined with products not belonging to the Supplier, the Supplier becomes co-owner according to statutory provisions. If the Purchaser acquires sole ownership by combining, mixing or blending, the Purchaser will hereby assign the Supplier co-ownership in the ratio of the value of the Retained Product to the other products at the time of combining, mixing or blending. The new asset owned or co-owned by the Supplier is considered a Retained Product in accordance with these Terms. The Purchaser will safely store the Retained Product on behalf of the Supplier free of charge and with the diligence of a prudent businessman.
- 11.3 The Purchaser hereby assigns its claims from a resale of the Retained Product to the Supplier at the value of said product, regardless of whether the product is sold on its own or together with products not belonging to the Supplier. The Supplier accepts the assignment. If the resold Retained Product is co-owned by the Supplier, the assignment of claims will extend to the amount equal to the Supplier's portion of the co-ownership.
- 11.4 The Purchaser assigns eligible claims, at the value of the Retained Product, to the Supplier that arise against a third party from the incorporation of the Retained Product as an essential component in a piece of real estate, ship, ship under construction or aircraft. The Supplier accepts the assignment. Section 10.3 sentence 3 applies accordingly.
- 11.5 The Purchaser is only entitled and authorised to further process, install, use or resale the Retained Product in the ordinary course of business and provided that the claims under Section 10.3. and 10.4. are actually transferred to the Supplier. The Purchaser requires the consent of the Supplier to otherwise dispose of the Retained Product, in particular to pledge or assign it as a security.
- 11.6 The Purchaser has the revocable right to collect claims assigned to the Supplier under Sections 10.3 to 10.5 during the ordinary course of business. The Supplier will not exercise its own collection right as long as the Purchaser meets its payment obligations, including those vis-à-vis third parties. At the request of the Supplier, the Purchaser must name the debtors of the assigned claims and notify them of the assignment. The Supplier itself is entitled to notify the debtors of the assignment. Asserting reservation of title and, in particular, demanding goods be returned represent a withdrawal from the contract in case of doubt.
- 11.7 The Purchaser must immediately notify the Supplier of execution proceedings instigated by third parties with respect of the Retained Product or the assigned claims, supplying the documentation necessary for opposing the proceedings.
- 11.8 At its discretion and at the request of the Purchaser, the Supplier undertakes to release the securities owed to it insofar as the realisable value of these securities exceeds the secured claims by more than 10%.

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## 12 Place of jurisdiction

- 12.1 The law of the Federal Republic of Germany applies exclusively, to the exclusion of the UN Convention on the International Sale of Goods (CISG). The contract language is German.
- 12.2 If the Purchaser is a merchant, a legal person governed by public law, or a special entity governed by public law, the place of jurisdiction for both parties is the domicile of the Supplier; this also applies in the event of disputes regarding processes for deeds, bills or exchange or cheques. The Supplier is entitled to pursue legal proceedings against the Purchaser at any other statutory place of jurisdiction.
- 12.3 Each of the paragraphs of these terms and conditions operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

Putzbrunn, Germany, October 11, 2023