

## **General Terms and Conditions of Delivery and Payment**

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Valid 2 October 2017

### **Application**

1. These terms and conditions of sale apply to entrepreneurs, legal persons under public law and special funds under public law domestically and abroad.

Our goods and services are provided exclusively under the following terms and conditions.

Terms and conditions of the other party that are not expressly recognized by us do not apply.

### **General Provisions**

2. The contract parties must confirm any oral agreements in writing without undue delay.
3. Orders will only become binding through our order confirmation.
4. Information and images in brochures and catalogs are customary approximates, unless expressly stated to be binding.
5. We may refuse acceptance of an order of the other party if it becomes foreseeable that settlement of our payment claims under the contract may be threatened by lack of the other party's assets.
6. Should single parts of these terms and conditions of sale be or become ineffective, this will not impair the effectiveness of the other provisions.

### **Long-Term and Call-Off Contracts & Price Adjustments**

7. Indefinite contracts may be terminated with 6 months' notice.
8. In case of significant changes to labor, material or energy costs of long-term contracts (contracts with terms of more than 12 months and indefinite contracts), each contract party may obtain appropriate price adjustments in consideration of these factors.
9. If, during the term of a contract, commodity prices demonstrably change by more than 15% in relation to the commodities index since contract conclusion, each contract party may obtain appropriate price adjustments.
10. If no binding order volume is agreed, we will base our calculations on a non-binding volume expected by the other party for a certain period (target volume).

If the other party does not accept the full target volume, we may correspondingly raise the unit price. If the other party accepts more than the target volume, we will correspondingly lower the unit price if the other party announces the additional need at least 2 months before the delivery.

11. For call-off delivery contracts, binding volumes must be reported to us at least 1 month before the delivery date through call-offs, unless agreed otherwise.

Additional costs caused by the other party through late call-offs or subsequent changes to call-offs concerning the time or volume must be borne by the other party; our calculations apply.

### **Confidentiality**

12. Documents (including samples, modules and data) and information obtained through the business relationship may only be used for joint aims and must be kept confidential towards third parties with the same due care by the contract parties as for own documents if labeled as confidential by or in case of an obvious interest in non-disclosure for the other contract party.

These obligations will commence upon first receipt of the documents or information and will expire 24 months after the business relationship ends.

13. These obligations do not apply to information or documents that are publicly known or were already known to the contract party without confidentiality obligations upon receipt or that are transferred to an authorized third party or are created by the recipient contract party without exploitation of confidential information or documents of the other contract party.

#### **Drawings and Descriptions**

14. If a contract party provides drawings or technical documents concerning goods to be delivered or their production to the other party, these drawings and technical documents will remain the property of the disclosing contract party.

#### **Samples and Production Material**

15. Production costs of samples and production material (tools, forms, templates, films, etc.) will be invoiced separately from delivered goods, unless agreed otherwise. This also applies to production material that must be replaced due to wear.
16. Costs of proper storage and risk of destruction of production material will be borne by us. Costs of maintenance and necessary follow-up work/corrections must be borne by the customer.
17. If the other contract party suspends or terminates samples or production material during production periods, any production costs incurred until then must be borne by this contract party.
18. Even if paid for by the other contract party, production material will remain in our possession at least until performance of the delivery contract. The production material may then be handed over to other contract party if a mutual handover date is agreed and the other contract party has fully satisfied all contractual obligations.
19. We will store production material free of charge for 3 years following the last delivery to the other contract party. We will then ask the other contract party in writing to discuss how to proceed further within 6 weeks. Our storage obligations will end if the other contract party does not respond or submit a new order within these 6 weeks.
20. We may only use production material of the buyer for deliveries to third parties with the prior written consent of the other contract party.

### **Prices**

21. Our prices are in euros without VAT, packaging, freight, shipping or insurance.

### **Payment Conditions**

22. All invoices must be settled within 30 days of the invoice date. If invoices are settled within 10 days, we will grant a 2% discount if the other contract party does not default on other payments.
23. If we irrefutably deliver partially incorrect goods, the other party must nonetheless pay for the correct share of goods, unless the partial delivery is of no interest to the other party. Apart from that, the other party may offset against claims to compensation for defect remedies or completion costs; however, this may only be done with other counterclaims that have been legally established or are ready for a decision or are uncontested. Rights of the other party to withdrawal or refuse performance are also only established within these restrictions.
24. In case of default, we may charge default interest at the rate the bank determines for us for overdraft, though at least at 8% above the respective base rate of the European Central Bank.
25. In case of default, we may, after notifying the other party in writing, suspend performance of our obligations until we receive payment.
26. We only accept bills of exchange and checks if agreed and only as conditional payment under the condition that they can be discounted. Discount fees will be charged as of the due date of the invoice. Guarantees for on-time submission of bills of exchange or checks or protests of bills of exchange are excluded.

### **Delivery**

27. Unless agreed otherwise, our deliveries are performed "ex works." Whether delivery deadlines or periods are met is determined by when the goods are ready to be shipped or collected.
28. Delivery periods commence when we send our order confirmation and will be appropriately extended if the conditions of Number 56 are satisfied.
29. Partial deliveries are permitted to a reasonable extent and will be invoiced separately.

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30. Production-based greater or lower deliveries are permitted within a tolerance of +/- 10% of the total order volume for signs without milling and +/- 5% for front plates. The total price will be adjusted based on the extent of the deviation. If the customer does not want additional deliveries, the customer must state this with the inquiry or order, because the sales price will otherwise be increased.

#### **Shipment and Transfer of Risk**

31. Goods ready for shipment must be accepted by the other contract party without undue delay. Otherwise, such goods may, at our discretion, be shipped or stored by us at the other contract party's expense.
32. Unless agreed otherwise, means and paths of transportation will be chosen by us.
33. Upon the handover to rail transport or to the carrier or forwarder or upon commencement of storage, though, at the latest, when the goods leave our plant or warehouse, risk will be transferred to the other contract party, even if we perform the delivery.

#### **Delivery Delays**

34. If we can foresee that goods cannot be delivered by the deadline, we will notify the other contract party, state the reasons and, if possible, offer a new delivery date without undue delay.
35. If a delivery is delayed because of a reason in Number 56 or actions or omissions of the other contract party, the delivery period will be extended in accordance with these circumstances.
36. The other party may only withdraw from the contract if we are not responsible for the failure to meet the delivery deadline and if the other party grants us an appropriate grace period.

### Retention of Title

37. We will retain title to delivered goods until all claims under the business relationship with the other party have been settled.
38. The other party may sell these goods through the ordinary course of business if the obligations under the business relationship with us are satisfied in time. However, the other party may not pledge or use retained goods as collateral. The other party must safeguard our rights when selling retained goods on credit.
39. In case of breaches of duty by the other party, especially default, we may suspend performance and withdraw from the contract and collect the goods after an appropriate grace period; legal provisions concerning grace period waivers will remain unaffected. The other party must surrender the goods.

We may withdraw from the contract if insolvency proceedings are requested for the other party's assets.

40. The other party already hereby assigns to us as collateral any claims and rights from the sale or lease permitted to the other party for goods to which we have title. We hereby accept this assignment.
41. The other party may only modify or process retained goods on our behalf. If retained goods are processed or inseparably mixed with other objects not owned by us, we will acquire co-ownership of the new object at the ratio of the retained goods' invoice value to other processed or mixed objects at the time of processing or mixing.

If our goods are inseparably mixed or combined with other movable objects into a uniform object and if the other object must be considered the main object, the partner must transfer proportional co-ownership to us to the extent of the other party's ownership of the main object. The other party must keep the owned or co-owned object for us. Apart from that, the same applies to the object created through processing or mixing as to retained goods.

42. In case of enforcement measures by third parties concerning retained goods, claims assigned to us or other collateral, the other party must notify us and must submit any documents necessary for intervention without undue delay. The same applies to impairments of any kind.
43. If the value of current collateral exceeds the secured claims by more than 20% in total, we must release collateral at our discretion if requested by the other party.

#### **Material Defects**

44. The condition of goods is determined solely by the agreed technical delivery specifications. If we must deliver goods based on drawings, specifications, samples, etc. of the other party, the other party must bear the risk of suitability for their intended use. Whether goods are in contractual condition is determined by the transfer of risk date in accordance with Number 31.
- 44a. For all deliveries, we comply with the legal provisions of the European Union and the Federal Republic of Germany, e.g. REACH (Regulation (EC) No. 1907/2006), the German Electrical and Electronic Equipment Act [Elektro- und Elektronikgerätegesetz, ElektroG] and the German Electrical and Electronic Equipment Regulation [Elektro- und Elektronikgeräte-Stoff-Verordnung, ElektroStoffV] as national implementations of Directive 2002/95/EC (Restriction of Hazardous Substances Directive, RoHS I), Directive 2011/65/EU (Restriction of Hazardous Substances Directive, RoHS II) and Directive 2012/19/EU (Waste Electrical and Electronic Equipment Directive, WEEE) and the German End-of-Life Vehicle Ordinance [Altfahrzeugverordnung, AltfahrzeugV] as the national implementation of Directive 2000/53/EC. We will inform the other party about relevant changes to goods and their deliverability, usability and quality, especially if due to REACH, and will coordinate suitable measures with the other party without undue delay.
45. We are not liable for material defects caused by unsuited or improper use, incorrect assembly or commissioning by the other party or third parties, common wear or incorrect or negligent treatment or consequences of improper modification or maintenance work performed by the other party or third parties without our authorization. The same applies to defects that only impair usability of goods insignificantly.
46. Limitation of material defect claims follows legal provisions, unless agreed otherwise.
47. Material defect claims will expire after 12 months. However, this does not apply if longer periods are required by law, especially for defects of buildings or goods that caused defects to when used, as intended, for buildings.
48. If goods acceptance or a first article inspection is agreed, objections to defects the other party could have detected through diligent acceptance or first article inspection are excluded.
49. We must be given opportunity to assess reported defects. Reported goods must be returned to us without undue delay if requested; we will bear the shipping costs if the reported defects are legitimate. If the other party fails to comply with these obligations or modifies reported goods without our authorization, the other party will lose all material defect claims.
50. We will, out our discretion, remedy or provide defect-free replacements for legitimate defects reported on time.

51. If we fail to satisfy these obligations or to do so contractually within an appropriate time, the other party may grant us a final grace period in writing by which we must fulfill our obligations. After this period expires unsuccessfully, the other party may obtain price reductions, withdraw from the contract or perform or have necessary remedies performed by a third party at our expense and risk. Refunds are excluded if expenses increase because the goods are brought to a different location after our delivery, unless this is done in accordance with proper use of the goods.
52. Recourse claims of the other party will only be established against us if the other party did not agree to defect claims exceeding those provided by law with the other party's buyers. The last sentence of Number 49 correspondingly applies to the extent of recourse claims.

#### **Other Claims & Liability**

53. Unless specified otherwise hereafter, other and further claims of the other party against us are excluded. This especially applies to claims to compensation based on unlawful acts or breaches of contractual duties. We are therefore not liable for damage not incurred by delivered goods. We are especially not liable for lost earnings or other asset damage of the other contract party.
54. The above liability limitation does not apply in case of intent, gross negligence by our legal representative or executives or to culpable violations of essential contractual obligations, i.e. obligations on whose performance proper contract performance depends and on compliance with which the other contract party regularly relies and may rely. In case of culpable violations of essential contractual obligations, we will—except in case of intent or gross negligence by our legal representatives or executives—only be liable for foreseeable damage that is typical for the contract.
55. Furthermore, this liability limitation does not apply in case of liability under the German Product Liability Act [Produkthaftungsgesetz, ProdHaftG], errors of delivered goods or personal or material damage to privately used objects. This liability limitation also does not apply to injuries to life, limb or health or if assured features are missing if and insofar as such assurance prompted the other contract party to obtain protection against damage not directly incurred by the delivered goods.
56. If our liability is excluded or limited, this also applies to the personal liability of our employees, legal representatives and vicarious agents.
57. Legal provisions concerning the burden of proof remain unaffected.



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### **Force Majeure**

58. Force majeure, labor disputes, unrest, measures by authorities, failed deliveries by our suppliers and other unforeseeable, inevitable and severe events exempt the contract parties from their performance obligations for the period and to the extent of the effects of the disruption. This also applies if these events occur after the contract party is in default, unless this default is caused with intent or through gross negligence. The contract parties must, as far as reasonable, provide necessary information and adjust their obligations to the changed circumstances in good faith.

### **Place of Performance, Place of Jurisdiction & Applicable Law**

59. Unless specified otherwise by the order confirmation, the place of performance is our registered office.
60. The place of jurisdiction for any disputes, including for bill of exchange or check proceedings, is our registered office. We may also sue at the other party's registered office.
61. This contractual relationship is governed exclusively by the law of the Federal Republic of Germany.

The application of the United Nations Convention on Contracts for the International Sale of Goods 11 April 1980 (CISG, "Vienna Convention") is excluded.

Unnau, 2 October 2017

Andreas Altenburg  
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