

# General Terms and Conditions for Sales of Goods

## 1. Applicability of Our General Terms and Conditions for Sales of Goods

- a) Any business transaction between us and our buyers during our business connection, and, thus, all future orders, shall exclusively be governed by the General Terms and Conditions for Sales of Goods set out hereinafter unless any modification thereof is agreed to by us in text form according to BGB (Bürgerliches Gesetzbuch = German Civil Code) section 126b (e.g., by letter, telecopy or email).
- b) Advance objection is hereby made to any differing terms in purchase order forms or in written purchase orders received from buyers. Such terms shall not even become binding on us if we fail to explicitly disagree with them.
- c) All stipulations entered into by us and our buyers with regard to the performance of this agreement are laid down in writing in this agreement.
- d) Our Terms and Conditions for Sales of Goods only apply to transactions with entrepreneurs in terms of BGB § 14.

## 2. Prices – Payment Terms

- a) The prices stated in our order confirmation apply, plus VAT. Prices are subject to change in the event of cost increases for which we are not responsible; in such cases, we reserve the right to adjust prices accordingly.
- b) Consignments of not less than € 250.00 net without value added tax are delivered free at the destination post office or destination train station without packaging charges.
- c) If the value of any consignment is less than € 250.00 net without value added tax, then the packaging and shipping costs shall be paid by the buyer.
- d) If the buyer desires speeded up shipment or if other shipment costs not mentioned under b) and c) above are incurred, we have discretion to decide whether or not to charge those costs to the buyer.
- e) Cash on delivery expenses shall be payable by the buyer.
- f) Payments shall be made either within 8 days of the invoice date with a 2% cash discount or within 30 days without discount.
- g) The statutory provisions on the consequences of payment default shall apply.
- h) The buyer shall not be entitled to setoff unless the buyer's counterclaim is undisputed or is enforceable as a debt under an unappealable judgment; the buyer shall not assert any right to withhold payment unless that right is based on claims arising from the respective sales contract.

## 3. Risk

- a) Any delivery is made at the buyer's risk.
- b) We have performed our delivery obligations as soon as the goods are duly handed over to the postal service, railway service, carrier, or forwarding agent, or have been loaded on our own vehicles.
- c) Our delivery obligations shall be suspended during obstructions caused by circumstances we are not at fault for and that are beyond our control, through which manufacture or delivery of any purchased goods is made unreasonably difficult or temporarily impossible, such as acts of God and war, or administrative measures, disruptions of business operations, strikes, lockouts, which we or our suppliers are affected by, and during the aftereffects of such obstructions.

## 4. Liability for Defects

- a) The buyer shall not have any warranty claims unless the buyer's obligations to examine the goods and give notice of defects provided under HGB (Handelsgesetzbuch = German Commercial Code) section 377 have been duly met.
- b) If the purchased item is defective, the buyer has the choice to demand reperformance either by remedying the defect or by delivering a nondefective item. If the defect is to be remedied, we shall bear all expenses required for the purpose of remedying the defect, particularly all costs of transportation, travel, labor, and materials, to the extent such expenses are not increased by the purchased item's relocation to another place than the place of performance.
- c) If the reperformance is unsuccessful, the buyer has the choice of demanding either that the contract be rescinded or that the purchase price be reduced.
- d) We shall be liable according to the provisions of statutory law if the buyer claims damages based on malicious intent or gross negligence including intentional or grossly negligent misconduct of our representatives or vicarious agents. If we are not accused of having breached any respective contract intentionally, then the damages to be compensated by us shall be limited to the foreseeable, typically occurring damages.

e) We shall be liable according to the provisions of statutory law if we culpably breach a material contractual duty; in that case, the damages to be compensated by us shall be limited to the foreseeable, typically occurring damages, however.

f) If the buyer is entitled to damages instead of performance, our liability provided under c) shall also be limited to the compensation of foreseeable, typically occurring damages.

g) The liability for any culpable injury to life, body, or health shall remain unaffected; the same shall apply to the mandatory liability under the Produkthaftungsgesetz (German Product Liability Code).

h) Any liability is disclaimed unless provisions to the contrary have been made above.

i) The period of limitation for warranty claims shall be 12 months as of the passing of risk.

j) The period of limitation in the case of a recourse against the supplier according to BGB sections 478 and 479 shall remain unaffected; that period of limitation is five years as of the delivery of the defective item.

## 5. Entire Liability

a) We do not assume any liability for damages in excess of the provisions included in section 4. above, regardless of the legal nature of the asserted claim. This shall particularly apply to claims for damages based on a breach of duty during contract negotiations, on breaches of other duties, or on claims under tort law for the compensation of property damages according to BGB section 823.

b) The limitation under a) shall also apply if the buyer demands compensation of wasted expenses instead of claiming damages in lieu of performance.

c) To the extent our liability for damages is disclaimed or limited, that disclaimer or limitation shall also include our vicarious agents' and workforce members' personal liability for damages.

## 6. Retention of Title Security

a) We retain title to the purchased item until we have received all payments due under the supply agreement. We are entitled to repossess the purchased item if the buyer commits a breach of contract, including without limitation default in any payment. Repossession of the purchased item by us includes a rescission of the contract. After having repossessed the purchased item we are entitled to sell that item; the proceeds from such a sale minus reasonable costs of such a sale shall be credited against the customer's debt.

b) The buyer shall immediately inform us in writing of any attachments or other interventions by third parties so that we can file suit pursuant to ZPO (German Code of Civil Procedure) section 771. To the extent any such third party is not capable of reimbursing us for the court fees and out of court expenses for an action pursuant to ZPO section 771, the buyer shall be liable to compensate us for the loss incurred.

c) The buyer may resell the purchased item in the ordinary course of the buyer's business; the buyer is, however, now, already, assigning all claims in the amount of the invoice total (including value added tax) of our receivable accruing to the buyer from such resale against the buyer's customer or any third party regardless if the purchased item was resold without being processed or after having been processed. Even subsequently to their assignment, the buyer remains authorized to collect such claims. Our right to collect the claim ourselves remains unaffected thereof. We agree, however, not to collect the claim while the buyer duly meets its payment obligations by using the proceeds to pay us and does not default any payment, and in particular while no composition proceedings or insolvency proceedings are filed for or while payments on the buyer's debts are not suspended. Should that be the case, however, we may demand that the buyer make the assigned claims and their debtors known to us, inform us of all the details required for collection of those claims, surrender the pertaining documents and disclose the assignment to the debtors (third parties).

## 7. Place of Performance - Place of Jurisdiction

a) If the buyer is a merchant, our domicile shall determine the court of competent jurisdiction; we may, however, also file suit against the buyer at the court of the buyer's domicile.

b) The laws of the Federal Republic of Germany shall apply; the provisions of the United Nations Convention on Contracts for the International Sale of Goods shall be inapplicable.

c) Our domicile shall be the place of any performance unless stated otherwise in the acknowledgment of the order.

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