

Standard Terms of Sale and Delivery

of

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1. General Terms

- a) The following Standard Terms of Sale and Delivery shall govern all our offers, sales, deliveries and other services. The customer's standard terms of business shall in no event apply even where they are transmitted to us in any confirmation letter or in any other way and we do not object to them.
- b) Any arrangement or agreement shall require to be confirmed in writing in order to be valid. This shall extend to agreements entered into with our representatives.
- c) Our offers including accompanying documents shall not be binding upon us and shall be subject to change.
- d) We reserve all and any property rights and copyrights in all and any offers and drawings and other documents enclosed with any offer. Such documents may not be made accessible to any third party nor be used commercially without our prior consent.
- e) The Incoterms as amended at the time of entering the contract shall apply except where these Standard Terms of Sale and Delivery contain diverging terms or conditions.

2. Prices

The prices current at the time of delivery shall apply and all prices shall be ex works Obertshausen without packaging and applicable VAT. Any eventually applied cash discount is subject to timely payment of the purchase price.

3. Payment, Set-Off, Retention

As far as not agreed otherwise, payments shall be made within 8 days of the date of the invoice without deductions. Payments shall be deemed to have been made when due only if received by us or credited to our account without reservation at that time.

Payments by means of bills of exchange are not accepted.

If two or more claims against the customer are outstanding and a payment made by the customer is insufficient to satisfy all claims, then the allocation of the amount paid shall be pursuant to the statutory provisions (s. 366 par. 2 German Civil Code) even where the customer has explicitly paid to satisfy a specific claim.

Any set-off and the exercise of any statutory right of retention with or on the basis of any counterclaim on the customer's part (e.g. for any defect of the goods) that is disputed by us or

that has not been awarded in any final and unappealable judgement shall be excluded. The exercise of any right of retention shall be excluded also where the customer's claims do not arise under the same contract.

4. Shipment

Our deliveries shall be made ex factory at the cost and the risk of the customer. The mode of shipment shall be at our discretion. The risk shall pass to the customer at delivery to the forwarder or other carrier; this shall apply even where the goods are delivered by our own employees. In case of damages the customer is obligated to draw up a record jointly with the carrier. Any damage found has to be communicated to us immediately. Damaged goods have to be stored for our inspection.

5. Delivery

Our obligation to deliver and render services shall be subject to our having received our own supplier's delivery properly and when due. Statements as to delivery and performance dates shall be deemed to be estimates only except where otherwise agreed between the parties. Delivery times shall automatically extend by a reasonable period in the event of any hindrance falling outside the sphere of our responsibilities. Partial deliveries and performance by us shall be permitted except where they would constitute an unreasonable hardship for the customer commercially.

6. Defect Report, Customer's Remedies for Defects in Quality and Defects in Title

The customer shall report any apparent defect in writing without undue delay and in any case no later than two weeks after receipt of goods, and shall report any hidden defect in writing without undue delay after detection and in any case no later than two weeks after detection. These time limits shall be cut-off periods and all claims relating to defects not reported in time shall be excluded. Defect reports shall be deemed to have been given within the relevant time limit only where received by us prior to the expiry of such time limit.

Any claim on the customer's part for any defect shall be limited to a claim to defect-free specific performance. We may elect to make such defect-free performance either by clearing up the defect or by delivering a defect-free item. If such defect-free performance fails, the customer may elect to rescind the purchase contract or exercise the remedy of unilateral reduction of the purchase price. To the extent we are liable for damages for any defect (on whatever legal basis, including any damages claim for general breach of contract, breach of any pre-contractual duty, or tortious claims), such liability for damages shall be limited as stipulated in clause 8 hereof. This shall not affect any recourse claims on the customer's part pursuant to s. 478 German Civil Code. If we are liable for damages in the course of any such recourse pursuant to the law, our liability shall be limited as stipulated in clause 8 hereof.

Any claim on the customer's part for any defect shall become time-barred after one year, commencing at receipt of the goods. This shall not apply (1) in the event of any intentional breach or fraudulent concealment of the defect, (2) in the event of breach of any warranty for quality extended by us pursuant to s. 443 German Civil Code, and (3) regarding any item that in accordance with its usual use has been used for any building structure and has caused such building structure to become defective. Further, the above one-year limitation period shall not apply to damages claims for defects where the damage or loss results from any grossly negligent breach by our statutory representatives or our executives or the damage is personal injury or we are liable under tort. Where the defect consists in any third party's right on the basis of which surrender of the item may be claimed or in any other right registered on the land register, then the limitation period shall be three years. This shall not affect the statutory provisions on the limitation periods for

recourse claims pursuant to s. 479 German Civil Code or on limitation periods and exclusion periods pursuant to the German Product Liability Act.

We can only decide upon whether a claim for defects is justified if we have had the opportunity to inspect the parts in question. Therefore, the customer is obligated, at his cost, to ship the respective parts to us.

7. Retention of Title

- a) We retain the title to the goods (hereinafter the “Retained Goods”) up to the satisfaction of all our claims (whether existing or future) arising from our business relations with the customer. Where a current account is maintained with the customer, this retention of title shall secure our relevant claim of the current balance at any time.
- b) Any processing or alteration of the Retained Goods performed by the customer shall be deemed to be performed on our behalf pursuant to s. 950 German Civil Code, without resulting in any obligation on our part. Where the goods are processed together with other items that are not our property, we shall become a co-owner of the new item with a share equal to the proportion of the value of the goods to that of the other items processed at the time of processing.

For the event that Retained Goods are consolidated, mixed or mingled with chattels owned by the customer in such a way that the customer’s item must be considered as the main item, the customer herewith transfers to us the customer’s title to the overall item to an extent equal to the proportion of the value of the Retained Goods to that of the other consolidated, mixed or mingled items. For the event that Retained Goods are consolidated, mixed or mingled with chattels owned by any third party in an amount equal to the invoice total amount for the Retained Goods.

The item created through consolidation or mingling (hereinafter the “New Item”) and/or those (co-)ownership rights in the New Item that shall fall to us and/or shall be transferred to us under this clause 7.2 and those compensation claims assigned to us under this clause 7.2 shall secure our claim in the same manner as the Retained Goods under clause 7.1.

- c) The customer may resell the Retained Goods and/or New Item in the ordinary course of business subject to a retention of title. The customer shall ensure that the claims under such resale contracts can be assigned to us in accordance with clauses 7.4 and 7.5 hereof.
- d) The customer’s claims under any resale are herewith assigned to us. They shall secure our claims in the same manner as the Retained Goods. Where the customer sells Retained Goods together with other goods not delivered by us, the assignment of the claim shall be deemed to cover only the invoice total relating to the resale of the Retained Goods. In the event of any resale of the goods of which we have become a co-owner under clause 7.2 hereof or pursuant to the statutory provisions covering the consolidation, mixing and mingling of items, the assignment of the claim shall be deemed to be limited to the extent of our title as co-owner.
- e) Where the customer includes any claim from the resale of Retained Goods in any current account with any customer of the customer, the customer herewith assigns to us any resulting accepted balance or final credit balance for the customer in an amount equal to the total of the claims for the resale of such Retained Goods included in such current account. The third and fourth sentences of clause 7.4 hereof shall apply mutatis mutandis.
- f) The customer may collect the claims assigned to us for the resale of the Retained Goods and/or New Item. The customer may not assign such claims to any third party, including any assignment under a genuine factoring agreement.
- g) We may revoke the authority to resell the Retained Goods and/or New Item according to clause 7.3 hereof and the authority to collect the claims assigned to us according to clause 7.6 hereof in the event of the customer’s payment default or cessation of payments and in the event of any petition for the commencement of insolvency proceedings or in other cases

where the customer's credit standing and trustworthiness is impaired. In the event of a revocation of the resale and/or collection authority the customer shall without undue delay inform the customer's purchasers of the assignment of the claims to us and shall surrender all and any information and records necessary to collect the claims. Further in such event the customer shall surrender and/or transfer to us any security provided for such claims against the customer's purchasers.

- h) The customer shall inform us without undue delay of any seizing or other legal or physical impairment or endangering of the Retained Goods or any other security right provided to us.
- i) The customer is obligated to treat the retained Goods with care, and to effect any maintenance and repair measures at his cost. The customer shall insure the retained Goods adequately against fire, water and theft at replacement value. The customer herewith assigns to us the customer's claims under the relevant insurance policies.
- j) For the event of payment default or any other not only marginal breach of contract by the customer and for the event of any cancellation of the contract, the customer herewith consents to our removing and/or cause to be removed from the customer and Retained Goods and/or (where we are the sole owner) the New Item as defined in clause 7.2 hereof. Such removal shall be construed so as to constitute a recession of the contract only where we explicitly state this. For these purposes and for the purpose of any general inspection of the Retained Goods, the customer shall grant our authorized representatives access at all times.

8. Liability

- a) We shall be liable pursuant to the statutory provisions for any damage or loss resulting from any intentional or grossly negligent breach by our statutory representatives or our executives and for any personal injury. In the event of any intentional or grossly negligent breach by any ordinary agent employed in our performance and in the event of a slightly negligent breach of any material term or condition of the contract that is absolutely necessary for attaining the purpose of the contract and on the strict compliance with which the customer must be able to rely, we shall be liable pursuant to the relevant laws limited to such damage or loss the type and scope of which had been foreseeable by us at entering the contract. As for the rest, any claims on the customer's part for direct or indirect damages (on whatever legal basis including any damages claims for breach of any pre-contractual duty, or tortuous claims) shall be excluded.
- b) This shall not affect any statutory liability for the lack of any characteristic of the item warranted by us, for any fraudulently concealed defect or pursuant to the German Product Liability Act.
- c) The above limitation of liability terms shall apply also to any damages claims on the customer's part against our statutory representatives, executives and other agents employed in the performance of our obligations.

9. Place of Performance, Legal Venue, Governing Law

The place of performance for deliveries and payments is D-63179 Obertshausen.

If the customer is a commercial code business entity, a public-law corporation or a public-law special fund, D-63179 Obertshausen shall be the exclusive legal venue for any dispute arising directly or indirectly under the contract, including actions to be brought in bill of exchange matters. We may elect instead to bring any such dispute before any other court that has jurisdiction pursuant to the law.

The contract shall be governed by the laws of the Federal Republic of Germany, to the exclusion of the UN Convention on the International Sale of Goods.

NOTICE: We electronically store and process the data of the customer and any involved third party to the extent this is necessary for due and proper performance of the contract.