

As per March 2019

#### **§ 1 Scope of Application**

1. These Terms of Sale exclusively apply to entrepreneurs, legal entities under public law or special funds under public law within the meaning of § 310 para. 1 of the German Civil Code (BGB). Any terms and conditions of the ordering party that are contrary to or deviate from our Terms of Sale are not recognized by us unless we have expressly agreed to them in writing.
2. These Terms of Sale also apply to all future transactions with the ordering party if these are legal transactions of a similar nature (as a precaution the Terms of Sale should be enclosed with the order confirmation in any case).

#### **§ 2 Offer and Entering into Contracts**

If an order is to be considered an offer pursuant to § 145 of the German Civil Code (BGB), we can accept it within two weeks.

#### **§ 3 Provided Documents**

We reserve the property rights and copyrights to all documents supplied to the ordering party in connection with placing the order, such as calculations, drawings, etc. These documents must not be made available to third parties unless we have given the ordering party express written consent to do so. If we do not accept the ordering party's offer within the time limit stated under § 2, these documents must be returned to us immediately.

#### **§ 4 Prices and Payment**

1. Unless otherwise agreed in writing, our prices are ex works excluding packaging and plus the respective amount of applicable value-added-tax. Packaging costs are billed separately.
2. Payment of the purchase price must be made exclusively to the account communicated with the order. Any deduction for cash discounts is only permitted upon written special agreement.
3. Since we are currently building up production, we will handle pricing terms individually and communicate them upon confirmation of the order. Unless otherwise agreed, the purchase price is to be paid as follows: 50 % of the purchase price payable within 7 days of the order, another 50 % of the purchase price on delivery. Small amounts up to 200 € must be paid immediately on order confirmation within 7 days. Default interests shall be charged at a rate of 8 % above the respective base rate. We reserve the right to claim for higher damage caused by delay.
4. Unless a fixed price has been agreed, we reserve the right to make reasonable price changes due to changed wage, material and distribution costs for deliveries taking place 3 months or more from the time the contract was entered into.

#### **§ 5 Rights of Retention**

The ordering party is only entitled to exercise the right of retention insofar as its counterclaim is based on the same contractual relationship.

#### **§ 6 Delivery Period**

1. Since we are currently building up production, we can accept orders; delivery, however, can only be effected in 6 to 9 months at the earliest.
2. The commencement of the delivery period specified by us is dependent on the ordering party's fulfillment of its obligations in a timely and proper manner. We reserve the right to defense of non-performance of contract.
3. If the ordering party is in default of acceptance or culpably violates other duties to cooperate, we are entitled to demand compensation for any loss incurred by us as a result, including any additional expenditures. We reserve the right to assert further claims. If the aforesaid conditions are present, the risk of accidental loss or accidental deterioration of the object of purchase transfers to the ordering party at the point in time at which the ordering party is in default of acceptance or debtor's delay.
4. In the case of delayed delivery not resulting from intent or gross negligence on our part, we are liable to pay a lump sum compensation for delay amounting to 3 % of the delivery value for each full week of delay but not exceeding 15 % of the delivery values.
5. Any further legal claims and rights of the ordering party due to delayed delivery remain unaffected.

#### **§ 7 Transfer of Risk upon Shipment**

If the goods are sent to the ordering party at the ordering party's request, the risk of accidental loss or accidental deterioration of the goods transfers to the ordering party upon dispatch to the ordering party, but no later than the point in time at which the respective goods leave the factory/warehouse. This applies irrespective of whether the dispatch of the goods is made from the place of performance and irrespective of who bears the freight charges.

#### **§ 8 Retention of Title**

1. We retain ownership of the delivered item until all receivables arising from the delivery contract have been paid in full. This also applies to all future deliveries even if we do not always expressly refer to this. We are entitled to take back the object of purchase if the ordering party acts in violation of the contract.
2. The ordering party is obligated to handle the object of purchase with care until ownership has transferred to the ordering party. It is particularly obligated to take out, at its own cost, adequate reinstatement-value insurance against the risk of theft, fire and water damage (Note: allowed only on the sale of quality goods). If maintenance and inspection work has to be carried out, the ordering party shall proceed accordingly in good time at its own cost. As long as ownership has not transferred, the ordering party must notify us immediately in writing if the delivered item is seized or subject to other interventions by third parties. If the third party is not able to reimburse us for the court costs and out-of-court costs of a legal action pursuant to § 771 of the German Code of Civil Procedure (ZPO), the ordering party is liable for any resulting loss incurred by us.
3. The ordering party is entitled to resell the goods that are subject to retention of title within the ordinary course of business. The ordering party here and now assigns to us the claims against the customer from the resale of the conditional goods in the amount of the final invoice total agreed with us (including value-added tax). This assignment applies regardless of whether the object of purchase was resold without or after further processing. The ordering party remains authorized to collect the receivables even after assignment. This does not affect our authority to collect the receivables ourselves. However, we will not collect the receivables as long as the ordering party meets its payment obligations from the collected proceeds, is not in default of payment and, in particular, as long as no application for bankruptcy proceedings has been filed and as long as payment has not ceased.
4. Any treatment, processing, or alteration of the object of purchase by the ordering party always takes place in our name and on our behalf. In this case, the ordering party's expectant right to the object of purchase carries over to the remodeled item. If the object of purchase is processed together with other items not owned by us, we acquire co-ownership in the new item at the ratio of the objective value of our object of purchase to the other processed items at the time of processing. The same applies in the case of mixing. If mixing takes place in such a way that the item of the ordering party is to be regarded as the main item, it is deemed to be agreed that the ordering party proportionately assigns co-ownership to us and holds the thus created sole property or joint property in safe custody for us. To secure our claims against the ordering party, the ordering party also assigns to us any receivables from third parties that arise for the ordering party as a result of the incorporation of the conditional goods in real property; we hereby accept this assignment.
5. We commit to release the securities we are entitled to upon the ordering party's request if their value exceeds the receivables to be secured by more than 20 %.

#### **§ 9 Warranty and Notice of Defects as well as Recourse/Manufacturer's Recourse**

1. Any warranty rights of the ordering party are subject to the ordering party having properly fulfilled the obligation to inspect the goods upon receipt and submit complaints if applicable as required by § 377 of the German Commercial Code (HGB).
  2. Claims for defects become time-barred 12 months from the time the goods supplied by us were delivered to the ordering party. In case of claims for damages caused by intentional misconduct and gross negligence, as well as in case of injury to life, body and health based on an intentional or grossly negligent breach of duty by the user, the statutory limitation period shall apply. (Note: in case of the sale of used goods, the warranty period can be completely excluded with the exception of the claims for damages mentioned in sentence 2).
- In cases where longer periods are prescribed by law in accordance with § 438 Para. 1 No. 2 of the German Civil Code (BGB; regarding buildings and goods for buildings), § 479 Para. 1 of the German Civil Code (BGB; regarding the right of recourse), and § 634a Para. 1 of the German Civil Code (BGB; regarding construction defects), these periods shall apply. Our consent must be obtained prior to any return of goods.
3. If, despite all care taken, the delivered goods exhibit a defect that already existed at the time of transfer of risk, we will, at our choice, either repair the goods or supply replacement goods, provided that the notice of defects was given in due time. We must always be given the opportunity to render subsequent performance within a reasonable time. The above provision does not affect the rights of recourse in any way.
  4. If subsequent performance is unsuccessful, the ordering party can – without prejudice to any possible claims for damages – withdraw from the contract or reduce the compensation.
  5. Claims for defects cannot be asserted in the case of only insignificant deviation from the agreed properties and condition, in the case of only insignificant impairment of usability, in the case of natural wear and tear, or in the case of damage arising after the transfer of risk as a result of incorrect or careless handling, excessive strain, unsuitable equipment, poor construction work, an unsuitable foundation, or due to special external influences that could not have been foreseen at the time the contract was formed. Likewise, if repair work or modifications are carried out improperly by the ordering party or a third party, claims for defects cannot be asserted for these or resulting consequences.
  6. Claims on the part of the ordering party for expenditures necessary for the purpose of subsequent performance, particularly transport, travel, labor and material costs, are excluded if these expenditures increase because the goods delivered by us were subsequently transported to a location other than the ordering party's place of business, unless such transport is consistent with the goods' intended use.
  7. The ordering party can only assert rights of recourse against us insofar as no agreements have been made between the ordering party and the ordering party's buyer that go beyond the mandatory statutory rights relating to defects. Furthermore, as for the scope of the ordering party's right of recourse against the supplier, Paragraph 6 applies accordingly.

#### **§ 10 Miscellaneous**

1. This contract and all legal relationships between the parties are subject to the law of the Federal Republic of Germany, under exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
2. Place of performance and exclusive place of jurisdiction for all disputes arising from this contract is our place of business unless the order confirmation states otherwise (Note: The use of this clause is inadmissible if at least one of the parties is an enterprise not registered in the commercial register.)
3. All agreements made between the parties for the purpose of execution of this contract are recorded in this contract in writing.