

I. In general

- (1) Deliveries and Services of Magnetfabrik Bonn GmbH (hereinafter: "Supplier") will be conducted according to the following Terms and Conditions of Sale and Supply only.
- (2) The Supplier's silence to General Terms and Conditions of the Purchaser shall not be deemed as an approval of such conditions; General Terms and Conditions of the Purchaser are hereby expressly dissented. Any deviation from the Supplier's Terms and Conditions shall be deemed as a refusal of the order. Any notwithstanding acceptance, even under reserve, will be deemed as approval of the Supplier's Terms and Conditions.
- (3) Any provision deviating from the Supplier's General Terms and Conditions of Sale and Supply requires written confirmation in order to become effective.

II. Scope of Supplies and Services

- (1) All offers of the Supplier are subject to confirmation.
- (2) In case this might be required by the Supplier's material dispositions and capacities, the lot ordered might deviate up to 10%.
- (3) With respect to call orders, the date of the last call will be agreed upon as date of final acceptance. In case such date is overstepped, however, in any case twelve (12) months after order submission, the Supplier will be entitled to either supply outstanding deliveries, or to rescind from the contract with respect to outstanding deliveries.
- (4) Any Side Agreement, reservation, change or amendment of Agreements or declarations by sales representatives of the Supplier, require the written confirmation of the Supplier to become effective.
- (5) Samples are for orientation purposes only. In case of any purchase on approval, the specifications of the sample shall not be deemed as warranted.

III. Prices and Terms of Payment

- (1) Prices are valid exstock of the Supplier, plus VAT and, if applicable, costs for packaging and dispatch.
- (2) If the Supplier, before delivery, increases the prices, he shall be entitled to increase the prices agreed upon with the Purchaser accordingly, if the Purchaser is merchant.
- (3) The Supplier's claim for payment will become due with allocation of the delivery at the latest.
- (4) Any delivery to companies unknown to us will be made cash on delivery only, unless payment is made in advance.
- (5) Custombuilt specimen will be remunerated separately by handling expenses plus material costs.
- (6) Orders with advance performance will only be accepted under the condition that the solvency of the Purchaser is secured. In case that subsequently the solvency is doubted, in particular in the event that former invoices have not been paid or attempts of compulsory enforcement have failed or bill protests will emerge, the Supplier shall be entitled to rescind from such part of contract not being performed yet, or to change the Terms of Payment, in particular to claim for advance payment and the previous settlement of all receivables at that time.
- (7) Counterclaims of the Purchaser may only be offset if they are uncontested or have become res judicata.
- (8) If the Purchaser is merchant and the contract belongs to his commercial business, the Purchaser shall not have the right to withhold payments according to § 320 BGB (German Civil Code) or other rights of retention. This shall also apply to any right of retention with respect to reported and pretended defects of the delivered goods or services in relation to the warranty and commercial right of retention according to § 369 HGB (German Commercial Code).

IV. Term of Deliveries and Services

- (1) Performance of deliveries and services will be terminated according to both parties' written declarations.
- (2) Delivery times shall be approximate only, unless a fixed term of delivery has been assured. The delivery time will be extended for such period, in which a temporary impediment of delivery, which is not indebted by the Supplier, will be given.
- (3) The delivery term agreed upon will be complied with by allocating the goods for the Purchaser. In case the Parties agree upon dispatch, the delivery term shall be deemed as complied with, once the purchased goods have been given to dispatch.

V. Reservation of rescission

The Supplier is entitled to rescind from the contract, if subsequently unfavorable circumstances with regard to the financial situation of the other party emerge, such as but not limited to cessation of payment, failed measures of compulsory enforcement, bill protest, or application for bankruptcy. If the Supplier will make use of such right to rescission, he is obliged to inform the Purchaser immediately after receiving knowledge of the relevant circumstances.

VI. Passing of risk and dispatch

- (1) The risk will pass to the Purchaser, even if carriage free delivery has been agreed upon, once the delivery has been allocated the Supplier's stock, in case of agreed dispatch, once the allocated consignment has been fetched or given to dispatch.
- (2) Packaging and dispatch are carried out, at the Purchaser's expenses, with due diligence. Upon the Purchaser's request and at his expenses, the delivery will be insured by the Supplier against such risks as are insurable and explicitly named by the Purchaser.
- (3) The return of empties is to be cleared by the Purchaser with destination station Bonn-Güterbahnhof, in such case the Supplier will be selfcollector. In case of carrier dispatch, the Supplier will not bear any costs for carriage etc.

VII. Delay and Impossibility

- (1) The Purchaser's claims for damage caused by delay or default caused by delay or impossibility of the Supplier's services are limited to 10% of the value of such delivery or service or part of delivery or service, which was not or not duly performed due to delay or impossibility. Claims for damages, which exceed the above limitation, will be expressly excluded in all causes of delay or impossibility, even after expiration of an additional respite placed to the Supplier. This shall not apply in cases of mandatory liability upon intend or gross negligence.
- (2) The goods delivered are, even in the case of essential defects, to be accepted by the Purchaser. Partial deliveries are allowed.

VIII. Claims in the event of defects

With respect to defects, including guaranteed quality, the Supplier will be liable according to the following provisions:

- (1) Claims for defective products of the Purchaser are limited to the right for supplementary performance. If the supplementary performance by the Supplier fails, the Purchaser shall be entitled to either decrease the purchase price or rescind from the contract upon his choice. Claims for damages according to IX. hereof will remain unaffected. Purchaser's claims with respect to necessary expenditures, such as but not limited to expenditures for transport, toll, labor and material costs, are excluded insofar as the expenditures incur because of the delivery goods being subsequently dispatched to any other place than the place of delivery, unless the transfer will correspond to conventional use.

- (2) Any guarantee is required in writing to become effective. Such guarantee declaration will only be effective, if the content of guarantee as well as the duration and the validity area are adequately described.
- (3) Any notice of defect will only be considered, if made immediately in writing, however within fourteen (14) days after receipt of goods at the latest, by giving evidence of receipts, specimen, packing slip as well as indicating the invoice no. and the packaging signature.
- (4) In case of hidden defects, the written notice of defect must be made immediately after detection of the defect, however within five (5) months after delivery of the goods at the latest; the legal provisions for periods of limitation shall remain unaffected.
- (5) Goods being noticed as defective must only be returned with explicit approval of the Supplier.

IX. Claims for damages

- (1) The Purchaser's claims for damages for violation of contractual or precontractual obligations or for torts are excluded, unless the Supplier, his agent or auxiliary persons have acted with intend or gross negligence.
- (2) The Supplier will not be liable for indirect damage or damage which could not be foreseen at the time of conclusion of the contract, unless the Supplier, his agents or auxiliary persons have acted with gross default.
- (3) The above limitations shall not apply to damages resulting from death, injury or damage to health as well as to cases in which statutory liability is mandatory, e.g. liability for guarantee, liability according to product liability act (Produkthaftungsgesetz), or in cases of culpable violation of cardinal obligations.

X. Periods of limitation

- (1) Warranty claims shall expire, in cases pursuant to § 438 Sec. (1) No. 3 BGB (German Civil Code) within one (1) year from the beginning of the statutory period of limitation. In cases pursuant to § 438 Sec. (1) No. 2 BGB (German Civil Code) warranty claims shall expire within two (2) years from the beginning of the statutory period of limitation. Compelling regulations governing the statutory period of limitation shall remain unaffected.

XI. Instructions and observation of products

- (1) The Purchaser is obliged to carefully observe the product instructions issued by the Supplier or his subcontractors and to forward such instructions to his customers, also in cases of compound, mixture, commingling and procession, together with security advice and technical conditions of supply.
- (2) The Purchaser is obliged to agree with his customers upon a provision corresponding to Sec. (1) above with respect to products of the Supplier.
- (3) In case the Purchaser omits one of the obligations according to the above Sec. (1) and (2), and this will cause damage claims against the Supplier, the Purchaser will be obliged to indemnify and hold harmless the Supplier from such claims; if any default of the Supplier is concurrently causative, the indemnification will take place according to the relevant parts of causation.
- (4) The Purchaser is obliged to observe the products of the Supplier and their practical use. This shall also apply after resale of the products, regardless of unprocessed or processed, combined, commingled or mixed form. The obligation to product observation shall in particular relate to destructive characteristics of the product which are still unknown, or in relation to use or consequences of use which might impact damages. The Supplier must be informed immediately about any discovery whatsoever.

XII. Securitization of the Supplier

- (1) Title to the goods delivered shall not pass to the Purchaser until he has fulfilled all current and forthcoming liabilities which the Supplier, regardless of the legal grounds, is entitled to claim against the Purchaser.
- (2) The Purchaser is entitled to resale the goods within the cause of proper business. The entitlement to resale will expire automatically in case of an unsuccessful attempt of enforcement at the Purchaser, in case of protest against check or bill to be encashed by the Purchaser, as well as in case of application for bankruptcy proceedings against the Purchaser. Next to this, any other disposition about the goods delivered, in particular forfeiting or transfer by way of security, are permitted.
- (3) The Purchaser hereby in advance assigns to the Supplier all claims arising from any resale of the goods together with all ancillary rights. Subject to any time revocation, the Purchaser is entitled to debtcollect such claims assigned to the Supplier. The Supplier will not make use of his own debt collection right, as long as the Purchaser complies with his contractual payment obligations, also against third parties.
- (4) Without explicit and written approval of the Supplier, the Purchaser is not entitled to take into open account the claims of the Supplier. By way of precaution, the Purchaser assigns his claims from periodical account balances and the final balance up to the amount of the secured claims to the Supplier. Such assignment contains causal and abstract balances.
- (5) The security rights of the Supplier will expire only after complete fulfillment of all payments to the Supplier. In case of payment by check or bill, the security rights will expire only if the Purchaser has definitely encashed the bill and the recourse to the Supplier is no longer possible. The Supplier is obliged to release the security upon his choice, once the value of the securities given will exceed the Supplier's claims by more than 20%.
- (6) The Purchaser is obliged to inform the Supplier immediately about any enforcement measures of third parties with regard to the goods, subject to retention of title and other securities, by handing over all documentation necessary for appealing.
- (7) Upon the Supplier's request, the Purchaser will immediately provide the Supplier with a list of customers.

XIII. Place of jurisdiction and applicable law

- (1) If the Purchaser is merchant, the competent courts of Bonn will have exclusive jurisdiction and venue over all disputes arising out of or in connection with the contractual relationship. The Supplier is entitled to sue the Purchaser also at the Purchaser's general place of jurisdiction.
- (2) The contractual relationship is subject to German law only, excluding the application of the uniform law on the international sale of goods and the uniform law on the formation of contracts for the international sale of goods and the UN-Convention on the Sale of Goods.

XIV. Miscellaneous

Should any clause in these General Terms of Sale and Delivery and the Agreements concluded be or become invalid, the validity of the remaining clauses or remaining parts of clauses shall not be effected. The parties are obliged to substitute the invalid arrangement by such valid provision which conforms as far as possible to the economic purpose of the invalid clause.