GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY 05.18

1.0 SUPPLY CONTRACT

1.1 ACCEPTANCE OF ORDER

Upon receipt of the acknowledgement of order the supply contract, which shall be governed exclusively by the terms of sale set forth below, shall come into existence. Deviating terms and conditions of purchase of the Purchaser are hereby explicitly countered. Deviations and special conditions of the contract, if expressly accepted in writing by the Seller. Our General Terms and Conditions shall apply in relation to entrepreneurs, legal entities under public law pursuant to valid DGB (Deutsche Gesellschaft für Bilanzierung) rules.

The Seller’s Terms and Conditions of Sale and Delivery shall also apply if deliveries are made without reservation by the Seller and/or the Customer is aware of the fact that the terms and conditions of the Customer do not correspond to those of the Seller. The Seller’s Terms and Conditions of Sale shall also apply to all future orders by the Customer in the context of an on-going business relationship.

1.2 TENDER DOCUMENTS

Tender documents, drafts, cost estimates, etc. made available to the Customer are protected by copyright and remain the property of the Seller and are not to be returned unless agreed in writing, with the delivery negotiations and/or the supply contract. In particular, any reproduction or transmission to third parties or for the purpose of contracts shall be prohibited. The Seller shall immediately and completely return those documents that have been made available to the Customer by the Supplier if no supply contract is signed.

Technical data contained in the tender documents (drawings, blueprints, weights, etc.) only represent approximate values in principle. They only serve to describe the product and shall only be regarded as agreed if expressly indicated as such in the offer. Notwithstanding those provisions the goods ordered may be altered at any time subject to alterations or modifications.

1.3 PROTECTIVE DEVICES

In general, the goods ordered shall be delivered without any accessories protective devices. The Seller shall have the possibility to order such protective devices from the Seller separately at the Customer’s expense.

1.4 PACKAGING

The goods ordered shall only be delivered in packaged condition if this appears necessary according to the Seller’s experience. Packaging, if any, shall be charged to the Customer at cost price to the Customer. Due to economic reasons packaging on the return in exceptional cases prior agreement with the Customer. Apart from that the Customer shall take care of any waste disposal of packaging on his own expense

1.5 TIME OF DELIVERY/RESTRICTION OF DELIVERY

The delivery terms are defined in the contract. In particular, it shall depend on settlement of all invoices including previous deliveries, technical documents and other formalities and in any other event of force majeure) shall lead to an extension of the delivery period corresponding to the period during which the Seller is prevented from delivering the product properly due to the aforesaid circumstances.

In this case the Customer is entitled to rescind the contract provided that the agreed delivery date is exceeded by more than one month. The Customer shall be entitled to the right of rescission of the contract (including the right to withdraw from the supply contract in writing and the Seller does not effect later delivery within one month upon demand) which the Seller has made available to the Customer without the required technical documents, has completed with all formalities required and has made any agreed advance payments (see 2.3).

Events and circumstances beyond Seller’s control (e.g. incomplete or delayed deliveries to Seller, fire, restrictions and obligations to deliver imposed by strike or authorities, operational breakdowns, lockouts, strikes, transport and storage problems and in any other event of force majeure) shall be limited to the delivery period corresponding to the period during which the Seller is prevented from delivering the product properly due to the aforesaid circumstances.

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2.0 TERMS OF PAYMENT

2.1 CONTRACTcurrency

All prices shall be quoted in Euros.

2.2 PRICES

Unless otherwise agreed in writing – the prices stated or stipulated otherwise are understood to be exclusive of a security transfer by way of security - its future title or - in the absence of an indemnity ratio – its fractional share in the newly manufactured goods to the Seller. If the Re- sale of the Reserved Goods involves materials provided by a number of owners or the Seller is aware of the fact the Seller has participated in the manufacture of the good, the price is calculated in proportion to such joint ownership share – to the Seller. The same applies to any other claims that substitute the Reserved Goods or otherwise incur with respect to secured goods, e.g. insurance claims or tort claims resulting from loss or destruction of the good.

For cases of a resale of the Reserved Goods, the Customer: assigns by way of security the claims deriving from this resale against the Purchaser – and in case of joint ownership of the Seller of the Reserved Goods in proportion to such joint ownership share – to the Seller. The same applies to any other claims that substitute the Reserved Goods or otherwise incur with respect to secured goods, e.g. insurance claims or tort claims resulting from loss or destruction of the good.

The Seller’s Terms and Conditions of Sale and Delivery shall apply. Place of performance shall be the principal place of business of the Seller if there is no other place mentioned in the acknowledgement of order

Place of jurisdiction, also for actions based on bills of exchange or cheques - but apart from ruling proceedings, shall be the Seller’s principal place of business. The Seller shall also be entitled to institute an action at the principal place of business or at the place of a branch of the Customer.

2.3 DUE DATE AND PAYMENT

In principle, the Seller’s claims shall be payable in full on passing of the risk. For an order value of more than Euro 15,000 – 1/3 of the invoice amount shall fall due: on receipt of the acknowledgement - or on receipt of the readiness of dispatch - 30 days from the date of invoice

Any payment shall be considered as settled if the Seller:

- receives the payment and thereby extinguishes the claim
- has evidence of the fact the payment has been made
- has evidence of the fact the payment has been made

If the Customer does not pay the due date, interest shall be payable on the outstanding amounts at a rate of 5% p.a. from the due date on the application of a higher interest rate and additional damages in case of default shall remain unaffected.

2.4 SET OFF/RIGHT OF RETENTION

The Customer’s claims against the Seller’s claims for payment shall only be admissible if the counterclaim is undisputed or has become receivable. The same applies for a right of retention of the Customer. In case of a payment default (Event Of Default) – the Seller shall be entitled to claim the return of the items delivered.

2.5 TAKING BACK OF GOODS

In the event that unused goods already supplied are taken back, the Seller shall be entitled to charge a lump sum of up to 25% of the value of the goods to the Customer in proportion to the selection of the items to be released in detail being at the discretion of the Seller.

If the Seller withdraws from the contract due to a breach of contract by the Customer – in particular in case of a payment default (Event Of Default) – the Seller shall be entitled to claim the return of the Reserved Goods.

5.0 CLAIMS IN CASE OF DEFECTS

5.1 DUTY TO EXAMINE GOODS AND TO GIVE NOTICE OF DEFECTS

The Customer may only make any warranty claims if he has complied with the duty to examine the goods properly and to give notice of any defects pursuant to section 377, HGB (German Commercial Code).

5.2 CLAIMS IN CASE OF DEFECTS

The Customer can only claim subsequent performance of the contract, rescission of contract or reduction of the purchase price as well as damage claims to the extent their value ex- ceeds 50% of the amount of the claim. The Seller may claim damages under the contract. In case of a payment default (Event Of Default) – the Seller shall be entitled to claim the return of the Reserved Goods.

Should individual provisions of these General Terms and Conditions of Sale and Delivery be invalid, the validity of the remaining provisions shall not be affected. Should any provision be invalidated or become invalid, the parties shall agree upon a new provision which fulfills the subject matter by the invalid provision.

6.0 LIABILITY

6.1 LIABILITY

The liability of the Seller – regardless of its legal basis – is limited to damages, which the Seller, its agents or his auxiliary persons caused intentionally, by gross negligence or by negligently breaching duties substantial for the performance of the contract.

In cases of ordinary negligence liability is limited to the amount of damages, which typically occur in comparable business and which were predictable for the Seller at the time of conclusion of the contract or later at the time of the breach of duties.

The limitations set forth in this section 6.0 shall not apply to Seller’s liability due to intentional actions, for guaranteed quality, or due to any injury of life, limb or health or any liability under the Product Liability Act (Produkthaftungsgesetz).

7.0 PLACE OF PERFORMANCE AND JURISDICTION

The place of performance shall be the principal place of business of the Seller if there is no other place mentioned in the acknowledgement of order.

Place of jurisdiction, also for actions based on bills of exchange or cheques - but apart from ruling proceedings, shall be the Seller’s principal place of business. The Seller shall also be entitled to institute an action at the principal place of business or at the place of a branch of the Customer.

8.0 INFORMATION OBLIGATIONS IN ACCORDANCE WITH ARTICLE 13, 21, DVR

The information obligations according to Art. 13, 21, DVR can be found in the following linked document:

Information obligations according to Art. 13, 21, DVR

9.0 OTHER PROVISIONS

The legal relationship between the Seller and the Cus- tomer shall be solely governed by the written purchase agreement including these General Terms and Conditions of Sale and Delivery. This agreement reflects all essential and non-essential agreements between the contracting parties (within the context of an on-going busi- ness relationship and which were predictable for the Seller)

10.0 SECURITY TRANSFER

Security transfer by way of security – its future title or - in the absence of an indemnity ratio – its fractional share in the newly manufactured goods to the Seller. If the Re- sale of the Reserved Goods involves materials provided by a number of owners or the Seller is aware of the fact the Seller has participated in the manufacture of the good, the price is calculated in proportion to such joint ownership share – to the Seller. The same applies to any other claims that substitute the Reserved Goods or otherwise incur with respect to secured goods, e.g. insurance claims or tort claims resulting from loss or destruction of the good.

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Legal Form: Limited Liability Company
Commercial Register No.: 9350 Gelsenkirchen
Board of Directors: Uli Seeberger (Chairman/Owner), Dr. Bernd Groß, Dr. Christian Hansen, Alexander Kuppe