

# Terms and Conditions of Sale

Version as at: 01.07.2020

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| <p>1 General – Scope</p> <p>1.1 Our Terms and Conditions of Sale shall apply exclusively. We hereby reject all supplementary Purchaser's terms and conditions or such that deviate or differ from these T&amp;C unless expressly acknowledged in writing by us. Our Terms and Conditions of Sale also apply in the event that we execute the Purchaser's delivery without reservation and in awareness of the Purchaser's conditions which oppose or deviate from our Terms and Conditions of Sale.</p> <p>1.2 All arrangements made between us and the Purchaser for the purposes of executing this Contract shall be set out in writing in this Contract.</p> <p>1.3 Our Terms and Conditions of Sale shall only apply to contractors pursuant to § 310 (1) of the German Civil Code (BGB), legal entities under public law and special assets under public law.</p> <p>1.4 Our Terms and Conditions of Sale shall also be applicable for all future business with the Purchaser regardless of any separate indication.</p> <p>2 Offer – Offer Documents – Conclusion of Contract</p> <p>2.1 All of our offers are non-binding and without obligation. This shall apply even when we have delivered catalogues, technical documentation (e.g. drafts, plans, accounts, calculations, etc.), any other product descriptions or documents – including in electronic format – to the Purchaser.</p> <p>2.2 If the Purchaser's order is defined as an offer in accordance with § 145 BGB, we are permitted to accept the order within 2 weeks of its receipt.</p> <p>2.3 Acceptance can be declared either in writing (e.g. by order confirmation) or via delivery of the goods to the Purchaser.</p> <p>2.4 We also reserve the ownership rights and copyright over illustrations, drawings, calculations and other documents. This shall also apply to those written documents that are deemed "confidential". The Purchaser shall require our explicit written consent before transmitting such to third parties.</p> <p>3 Prices – Payment Terms – Assignment</p> <p>3.1 Unless otherwise specified in the order confirmation, our prices are ex-works. The costs of packaging, transport, insurance, set-up, installation and assembly are not included; these shall be invoiced separately.</p> <p>3.2 Statutory VAT is not included in our prices; this will be stated separately using the statutory value applicable on the date of invoice.</p> <p>3.3 The application of a discount requires special written agreement.</p> <p>3.4 Unless stipulated otherwise on the order confirmation, the net purchase price shall be due for payment within 30 days from the invoice date, without the deduction of any discount. Otherwise the legal provisions shall apply for the onset and consequences of a default in payment.</p> <p>3.5 Bills of exchange or cheques shall only ever be accepted by us when they have been honoured.</p> <p>3.6 The Purchaser is only permitted to offset claims against other payments if its counterclaims are upheld by a court of law, undisputed or acknowledged by us. The Purchaser is not permitted to any rights of retention for disputed counterclaims. The Purchaser is also entitled to exercise a right of retention only insofar as its counterclaim is based on the same contractual relationship.</p> <p>3.7 Claims against us may not be assigned without our written consent.</p> | <p>4 Delivery Time</p> <p>4.1 The commencement of our quoted delivery time assumes that all technical and commercial issues have been clarified.</p> <p>4.2 For us to uphold our delivery obligation, the Purchaser must fulfil its obligations in a timely and proper manner. We reserve the right to assert the defence of breach of contract.</p> <p>4.3 The Purchaser may request a delivery within a reasonable time period in writing six weeks after a non-binding delivery date or a non-binding delivery time-scale is missed.</p> <p>4.4 If the Purchaser enters into default of acceptance or violates other co-operation obligations, then we can demand compensation for the resultant damages we incur, including any additional expenditures. Further claims or rights shall remain reserved.</p> <p>4.5 If the shipment is delayed for reasons which are the fault of the Purchaser, the Purchaser shall be charged for any storage costs after the notification of readiness for despatch; in the case of the storage in our warehouse, this shall amount to 0.5% of the invoice sum due for the stored items, for each month. We are entitled to store the delivery item outside of our warehouse.</p> <p>4.6 Provided that the aforementioned conditions according to (4) are present, the risk of accidental loss or degradation of the purchased item shall be transferred to the Purchaser from when it enters into default of acceptance or default of debt.</p> <p>4.7 We are not liable if it is impossible to make deliveries or for delivery delays if these are due to force majeure or other events unforeseeable at the time the Contract was concluded (e.g. caused by operational disturbances of any kind, difficulties in procuring materials or energy supplies, transport delays, strikes, legal lock outs, a lack of staff, energy or raw materials, difficulties in the procurement of the necessary official licences, official measures or missing, incorrect or late delivery by suppliers) for which we are not responsible. If such events make it significantly more difficult or impossible to make deliveries or provide services, and the hindrance is not merely temporary in nature, we are entitled to withdraw from the Contract. In the event of hindrances which are temporary in nature, the delivery or service deadlines are extended or postponed by the period of the hindrance, plus a reasonable start-up period. If the Purchaser cannot reasonably be expected to accept the delivery or service, it can withdraw from the Contract by immediately sending a written declaration.</p> <p>4.8 We shall be liable in accordance with the legal provisions, insofar as the underlying purchase contract is a short selling one as defined in § 286 (2) No. 4 BGB or § 376 German Commercial Code (HGB). We shall also be liable in accordance with the legal provisions insofar as the Purchaser is entitled to assert that its interest in further fulfilling the Contract is discontinued as a consequence of a delay in delivery to be borne by us.</p> <p>4.9 We shall also have liability in accordance with the legal provisions if the delayed delivery is due to a breach of contract on our part, either on the grounds of intent or gross negligence; fault on the part of our representatives or vicarious agents shall be attributed to us. If the delay in delivery stems from a grossly negligent breach of contract to be borne by us, our liability for compensation shall be limited to foreseeable, typically occurring damage.</p> <p>4.10 We shall also have liability in accordance with the legal provisions if the delayed delivery on our part is due to the culpable breach of a fundamental contractual obligation; in this case, however, our liability to pay damages shall be limited to the foreseeable, typically incurred damages.</p> <p>4.11 We shall also be liable for each completed week of delay in the event of a delay in delivery within the scope of lump-sum damages for delayed performance in the amount of 0.5% of the delivery value, but in total no more than 5% of the delivery value. We reserve the right to prove that the Purchaser incurred no, or only significantly less, damage.</p> <p>4.12 The Purchaser still has the right to assert further rights and claims.</p> |
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Handelsregister/Commercial Register

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Geschäftsführer/Managing Director  
 Identnummer/Ident Numbers

Bernd Kargol, Dipl.-Wirtschaftsingenieur (FH) Denis Kargol  
 USt-IdNr. (VAT Reg. No.) DE 111745790

- 5 Transfer of Risk
- 5.1 Unless otherwise specified in the order confirmation, delivery is agreed ex-works.
- 5.2 The risk of accidental loss and accidental deterioration in the condition of the goods shall pass to the Purchaser, irrespective of its default in acceptance, no later than upon the handover of the goods to the Purchaser. If at the request of the Purchaser the goods are sent to another location, the aforementioned risk shall be transferred to the Purchaser upon handover of the goods to the forwarder, freight carrier or other person appointed to carry out the delivery.
- 5.3 If the Purchaser desires, we shall obtain transport insurance for the delivery; the Purchaser shall bear the costs incurred in this regard.
- 6 Retention of Title
- 6.1 We shall reserve ownership of the purchased item up to receipt of all payments from the Delivery Contract. Should the Purchaser act in breach of the Contract, particularly in the case of default of payment, we shall have the right to repossess the purchased item. Repossession of the purchased item by us shall signify a withdrawal from the Contract. After recovery of the purchased item, we shall be entitled to make commercial use of it; the earnings from which – less reasonable disposal costs – shall be offset against the Purchaser's liabilities.
- 6.2 The Purchaser shall be required to handle the purchased item with care. In particular, the Purchaser shall be obliged to insure the purchased item to its replacement value against fire, water and theft, at the Purchaser's own cost. If maintenance and inspection work is necessary, the Purchaser shall carry out such work at its own expense in a timely manner.
- 6.3 In case of seizure or another form of intervention by third parties, the Purchaser must immediately notify us in writing so that we can file an action in accordance with § 771 German Code of Civil Procedure (ZPO). If the third party is unable to reimburse us for judicial or out-of-court costs in respect of a claim pursuant to § 771 ZPO, the Purchaser shall be liable for the loss caused to us.
- 6.4 The Purchaser shall be entitled to resell the purchased item in the proper course of business. The Purchaser shall not be entitled to create a lien for the purchased item or to transfer it as a security. The Purchaser shall hereby assign all claims for the total sum of the final invoice (including VAT) to us, which arise from the resale to its customers or third parties, regardless of whether the purchased item has been resold without or after processing. The Purchaser also remains entitled to collect these claims after assignment. Our authorisation to collect the claim ourselves shall remain unaffected thereby. However, we shall be obliged to refrain from collecting the claim ourselves for as long as the Purchaser fulfils its payment obligations from the revenues collected, is not in default of payment, and, in particular, if composition or insolvency proceedings have not been applied for or payments have not ceased. If this is the case, we can demand that the Purchaser disclose the claims assigned and their debtors to us, provide all information required for the collection, submit the related documents and notify the debtors (third parties) of the assignment.
- 6.5 The processing or transformation of the purchased item by the Purchaser shall always be carried out for us. If the purchased item is processed with other items that do not belong to us, then we shall acquire joint ownership of the new item in proportion to the value of the purchased item (final invoice amount, including Value Added Tax) compared to the value of the other processed items at the time of the processing. Items arising as a result of processing are subject to the same conditions as a purchased item delivered under retention of title.
- 6.6 If the purchased item is inseparably mixed with other items that do not belong to us, then we shall acquire joint ownership of the new item in proportion to the value of the purchased item (final invoice amount, including Value Added Tax) compared to the value of the other mixed items at the time of the mixing. If the mixing is done in such a way that the Purchaser's item is considered the main item, it is understood that the Purchaser shall assign proportional joint ownership to us. The Purchaser shall hold the resulting sole or joint ownership for us.
- 6.7 The Purchaser shall also assign us the claims in order to secure our claims against it that accrue against a third party owing to the association of the purchased item with a property.
- 6.8 We undertake to release the securities to which we are entitled at the Purchaser's request insofar as the realisable value of our securities exceeds the claims to be secured by more than 10%; the choice of security released shall be at our discretion.
- 7 Liability for Defects
- 7.1 The Purchaser's warranty rights are predicated on the assumption that the Purchaser has duly satisfied its obligations to inspect the goods and to give notice of defects pursuant to § 377 HGB.
- 7.2 If the purchased item bears a defect, the Purchaser shall be entitled to demand, at our discretion, subsequent performance in the form of remedy of defects or the delivery of a new and fault-free product. The Purchaser shall give us the time and opportunity necessary to perform the supplementary performance owed, particularly by surrendering the disputed goods for testing purposes, free of freight charges. Expenditure, particularly transport, infrastructure, labour and material costs, required for the purpose of the testing and supplementary performance shall be borne by us if a defect is actually present. Our statutory refusal rights shall remain unaffected. If, however, a Purchaser's demand for repair of a defect proves to be unjustified, we can request that the Purchaser refund the costs arising from this. We shall also not bear the aforementioned additional costs associated with moving the purchased item to a place other than the place of fulfilment.
- 7.3 In urgent cases, e.g. if operational security is jeopardised or to help prevent disproportionate damage, the Purchaser has the right to eliminate the defect itself and request compensation for the objectively necessary expenditure for this. We are to be informed of such self-remedy immediately, and in advance if possible. The right to self-remedy does not exist if we would be entitled to refuse such a repair in accordance with the statutory provisions.
- 7.4 If rectification fails, the Purchaser is entitled, at its own discretion, to demand to withdraw from the Contract or to ask for a price reduction.
- 7.5 We shall also have liability in accordance with the legal provisions if the Purchaser claims damages on the grounds of intent or gross negligence, including intent or gross negligence on the part of our representatives or vicarious agents. Unless we are accused of an intentional breach of contract, our liability to pay damages shall be limited to the foreseeable, typically occurring damages.
- 7.6 We shall have liability in accordance with the legal provisions if we culpably breach a fundamental contractual obligation; our liability shall also be limited to the foreseeable, typically occurring damages in this case.
- 7.7 This shall not affect liability for culpable injury to life, limb or health; this shall also apply for mandatory liability in accordance with the German Product Liability Act.
- 7.8 Unless regulated otherwise above, liability shall be excluded.
- 7.9 The warranty no longer applies if the Purchaser modifies the delivery object or has third parties modify the delivery object without our consent, rendering the elimination of a defect impossible or making it unreasonably difficult. The Purchaser will in any case bear the additional costs for the elimination of a defect incurred due to such modifications. The warranty shall also cease to apply if the defect is due to actions or omissions on the part of the Purchaser, in particular due to the incorrect or lack of operation and maintenance of the equipment, the use of unsuitable operating materials or unsuitable operating conditions for the smooth operation of the equipment.
- 7.10 The statute of limitation for defect claims is 12 months, commencing from the transfer of risk.
- 7.11 If a warranty period > 12 months is agreed upon, the manufacturer's warranty is only valid under the condition that the customer or operator carries out regular maintenance on the product, replaces wearing parts with original OFRU parts and commissions an

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inspection of the products at least once a year by a specialist of OFRU or by personnel authorized by OFRU. The inspection will be charged at the currently valid rates.

## 8 Joint Liability

- 8.1 Further liability for compensation not mentioned in the above clause 7 shall not be accepted irrespective of the legal nature of the asserted claim. The regulations from clause 7 shall also apply accordingly for the overall liability. This particularly applies to claims for compensation for negligence when entering the Contract, due to other breaches of duty or due to tortious claims for reimbursement of material damage in accordance with § 823 BGB.
- 8.2 The aforementioned limitation according to (1) shall also apply insofar as the Purchaser demands the reimbursement of unnecessary expenditure in place of performance instead of a claim for damages.
- 8.3 Insofar as our liability for compensation is excluded or limited, this also applies to the personal liability for compensation of our employees, workers, co-workers, representatives and vicarious agents.

## 9 Place of Jurisdiction – Place of Fulfilment – Applicable law

- 9.1 If the Purchaser is an entrepreneur, a legal entity under public law or a special fund under public law, the place of jurisdiction shall be the local court in Aschaffenburg Germany or any other German court of our choice. Essential legal conditions about exclusive places of jurisdiction are not affected by this condition.
- 9.2 The law of the Federal Republic of Germany shall apply, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- 9.3 Unless otherwise specified on the order confirmation, our registered office shall be the place of performance.

## 10 Final Provisions and Notice

- 10.1 Insofar as the Contract or these General Terms and Conditions contain omissions, those legally valid provisions which the Contracting Parties would have agreed according to the economic aims of the Contract and the purpose of these General Terms and Conditions had they been aware of the omissions, shall be deemed to have been agreed, in order to remedy these omissions.
- 10.2 The Purchaser must note that we may save information from the contractual relationship for the purposes of information processing according to § 28 of the Federal Data Protection Act and reserve the right to transfer the information to third parties (e.g. to insurance companies) where this is necessary for fulfilling the Contract.

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