

LASCANA – It's a woman's world

General business terms

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1. Validity of the Terms and Conditions of Delivery and Payment

The Terms and Conditions of Delivery and Payment with which the customer (hereinafter, the "Buyer") had declared its understanding upon placing its order shall apply exclusively to said contract and future business, even if reference is not expressly made to them, but are received by the Buyer upon any order confirmed by us. Should the order be placed in deviation from our Terms and Conditions of Delivery and Payment, then our Terms and Conditions of Delivery and Payment shall also solely apply, even if we do not raise any objections. Deviations shall, therefore, apply only if they have been expressly acknowledged by us in writing. Amendments to our Terms and Conditions of Delivery and Payment shall be deemed to have been accepted, if the Buyer does not raise an objection within seven (7) days of the written amendment notice. These Terms and Conditions of Delivery and Payment were available in writing as of the date the contract was formed. There are no verbal side agreements.

2. Delivery times

Should any partial or on-call delivery be agreed upon, we shall be able to demand the agreed upon price in consideration of providing the totality of the quantity of goods, if the Buyer does not accept the goods or partial quantities. We reserve further rights. A binding delivery period is to be individually agreed upon. Any such agreement shall be made exclusively through an express confirmation by us upon accepting the order. Whether we are in delivery default shall be determined in accordance with applicable law. In any event, however, a warning by the Buyer shall be necessary. We shall be able to request from the Buyer that it exercise its rights within a reasonable time period. Should the Buyer not exercise its rights in due time, then we shall have the right to withdraw from the contract. Should we be prevented from making the delivery on account of force majeure, then the delivery date shall be automatically extended by the duration of the interruption. Unforeseeable circumstances making any delivery unreasonably difficult or impossible for us—without any fault of our own—shall be the equivalent of force majeure; such circumstances shall include, but not be limited to, labor disputes, official measures, bad commodity supply, disruptions in operations on account of water, fire, machine crashes, and the like regardless of whether they occur at our premises, our suppliers, or our carriers. We shall notify the Buyer without undue delay in the event we are unable to maintain binding delivery periods on account of such reasons and, at the same time, inform the Buyer of the anticipated new delivery period. Should the service not be available within the new delivery period either, then we shall have the right to withdraw from the contract in whole or in part; we shall reimburse the Buyer for any already rendered consideration without undue delay. A service non-availability event within the meaning hereof shall include, but not be limited, our not being supplied in a timely manner by our suppliers, if we have entered into a hedging transaction or neither we nor our suppliers are at fault therefor. Such shall not affect the rights the Buyer has under Sect. 10 of these Terms and Conditions of Delivery and Payment nor our statutory rights including, but not limited to, being exempted from our obligation to render the service (e.g., based on it being impossible or unreasonable to render the service and/or subsequent performance).

3. Partial or on-call deliveries

We shall have the right to render partial services, unless the Buyer does not have an interest in partial services. Should the payment of a partial delivery be culpably delayed, then we shall be able to refuse further performance. Should a partial or on-call delivery be agreed upon, then we shall be able to demand the agreed upon price in consideration of providing the totality of the quantity of goods, if the Buyer does not accept the goods or partial quantities despite a deadline therefor having been set. We reserve further rights.

4. Place of performance, transfer of risk, acceptance default

Deliveries shall be made ex works, where the place of performance shall be as well. Upon request and at the expense of the Buyer, we shall send the goods to any other delivery destination (shipping purchase). Unless otherwise agreed, we shall have the right to determine how the delivery shall be shipped (including, but not limited to, the transport company, distribution channel, packaging). The risk of incidental destruction and incidental deterioration of the goods shall be transferred to the Buyer by no later than the date of transfer. For shipping purchases, however, the risk of incidental destruction and incidental deterioration of the goods as well as the risk of delay shall be transferred upon the goods being transferred to the carrier, freighter, or any other person entrusted to carry out the shipment. A transfer shall be deemed to have been effected, if the Buyer is in default with the acceptance. Should (i) the Buyer be in acceptance default, (ii) the Buyer omit any assistive action, or (iii) our delivery be delayed for any reason the Buyer is to be held accountable for, then we shall have the right to demand compensation for any damages caused on account thereof, including any additional expenses (e.g., warehousing costs). In the event the goods are lost or damaged during transport, a correspondent damage/loss report is to be caused without undue delay to the person entrusted with carrying out the shipment. Insurance shall be taken out by us only to the extent such has been agreed upon in writing on a case-by-case basis.

5. Prices, payment conditions, default, solvency

Unless otherwise agreed upon on a case-by-case basis, the prices current as the date of contract formation, as such may be amended from time to time, shall apply ex works plus value-added tax as applicable by law. Any customs, fees, taxes, and other public charges shall be borne by the Buyer. Payments shall always be applied to the oldest payable invoice. Means of payment other than cash shall be accepted by us only as a means of payment. All payments are to be rendered at no charge to us. Bank, discount, and debiting charges shall be borne by the Buyer as well without any express agreement therefor. Exchange payments shall require a prior written agreement. The Buyer shall be entitled to setoff or retention rights only to the extent that its claim has been determined in a legally effective manner or is undisputed. Such shall not affect the counter-rights of the Buyer in the event the delivery is defective. Should the Buyer be in default to us for any payment obligations whatsoever, then all existing receivables claims shall become immediately payable. Should it become evident after the contract has been entered into that our claim to the purchase price is jeopardized on account of the Buyer lacking solvency (e.g., on account of a petition having been filed for the commencement of bankruptcy proceedings), then we shall have the right to refuse performance and to withdraw from the contract—after setting a deadline, if so required (§ 321 of the Bürgerliches Gesetzbuch (the Civil Code, the "BGB")). Doubts as to the solvency of the Buyer shall exist in cases including, but not limited to, those wherein a check is incapable of being cashed, an exchange incapable of being made, return debit notes having been effected, payment enforcement measures are unsuccessful, the Buyer has submitted an affidavit, or the commencement of bankruptcy proceedings has been filed for. We shall have the right to set the Buyer a reasonable deadline by which it shall have to render, at its option, payment of open receivables or security on a quid pro quo basis in consideration of performance. After the deadline has lapsed without success, we shall have the right to withdraw from the any and all still outstanding contracts.

6. Assignment

We shall have the right to assign the claims arising from our business connections.

7. Ownership proviso

The goods delivered by us shall remain in our ownership until such time as the Buyer has paid any and all receivables claims we have against it. Checks shall constitute payment only after they have been cashed and exchanges only after they have been made. The goods subject to this ownership proviso may be neither pledged nor transferred as security to any third party prior to the secured receivables claim being paid in full. The Buyer shall have to notify us in writing and without undue delay, if and provided that third party attachments are effected regarding the goods belonging to us. The Buyer may sell the goods, in which we have reserved ownership in the course of its normal business activities, unless it is in payment default or has ceased making payments. The Buyer hereby assigns to us, in the event it should sell the goods and so as to pay for all our receivables claims, the rights it is entitled to against its buyer arising from any such sale, including any and all ancillary rights and security. The rights assigned to us may not be assigned to any third party prior to our receivables claim being paid in full. We shall be able to demand that the Buyer notify its buyer of said assignment and to provide us with all information and documents as are necessary for any collection efforts. Should the receivables claims of the Buyer arising from its re-sale of our proviso goods be included in an open account, then it hereby assigns its claim to payment in the amount of the respective and acknowledged balance in the amount of the receivables claim we have against the Buyer. The Buyer may collect the receivables claims assigned to us, unless it is in payment default or has ceased making payments. Should the value of the securities granted to us exceed our receivables claims against the Buyer by more than 10%, then we shall be obligated to release such excess upon being requested to do so by the Buyer. In the event the Buyer is in payment default, we shall have the right to withdraw from the contract and to take back any goods delivered that are subject to our ownership proviso. We shall also be able to satisfy ourselves from the proviso goods we take back by directly selling them ourselves. We shall have the right to deduct from the sale proceeds the sale costs as the assertion of our claims, whereby we shall reserve the right to assert any further claims for compensatory damages.

8. Special orders

Should orders be specially produced by us in accordance with the ideas of the Buyer, its specifications, drawings, figures, etc., then the Buyer shall be liable for third party protection rights not being violated. The Buyer shall hold us harmless with regard to its obligation contemplated under sent. 1 from any and all receivables claims—including the costs of any legal defense.

9. Defect warranties

In the event of material defects and defects in title (including wrong and short deliveries), applicable law shall apply to the rights of the Buyer, unless otherwise provided for in the following. In all cases, the sui generis statutes shall not be affected in the event of final delivery of the goods to the consumer (supplier regress as contemplated under §§ 478, 479 BGB). Defect reports shall have to be made in writing without undue delay, whereby sending such in due time shall suffice for deadline-compliance purposes. Obvious defects are to be reported by no later than two (2) weeks. Should the Buyer fail to effect a due inspection and/or to report the defects, then our liability shall be precluded for the defects that have not been reported. We shall, initially at our option, be liable for rendering replacement deliveries in the event any delivered item is defective as of the date the risk has been transferred. We shall, for subsequent performance purposes, be obligated to bear any requisite expenses including, but not limited to, transfer, channel, labor, and material expenses to the extent such does not increase on account of the purchased item having to be brought to any location other than the place of performance. The Buyer shall be obligated to pay use compensation for the time period the delivered goods are used. We shall have the right to make any owed subsequent performance dependent upon the Buyer having paid the payable purchase price. The Buyer shall, however, have the right to retain a reasonable portion of the purchase price proportionate to the defect. Claims based on defects shall lapse in one (1) year, commencing as of the statutory commencement date therefor.

10. Liability and scope of liability

We shall be liable for damages on account of contractual or extra-contractual obligations being breached by our legal representatives and auxiliary agents in the event of malice or gross negligence and in the event of any breach of material contractual obligations that are of particular significance for the purpose of the contract being attained (cardinal obligations) as well as in the event of any injury to life, body, or health for malicious or negligent conduct. In the event we are liable for damages on account of cardinal obligations being breached—i.e., an obligation that the Buyer may have especially relied upon when it placed its order and that had been material to the success of the service—the liability shall be limited to the compensation of typical and foreseeable damages. As such, we shall not be liable for indirect damages including, but not limited to, lost profits. Otherwise, the statutory rules and regulations for liability shall apply including, but not limited to, those contemplated under the Produkthaftungsgesetz (the Product Liability Act) and the statutes of limitations.

11. Place of performance and venue

The legal relationships between the Buyer and us shall be governed by the laws of the Federal Republic of Germany including, but not limited to, the Bürgerliches Gesetzbuch (the Civil Code) and the Handelsgesetzbuch (the Commercial Code), but to the exclusion of the "Einheitliches Gesetz über den Abschluss von internationalen Kauf beweglicher Sache" (the "Unified Act on the execution of international purchases of movable items").

The venue for all disputes shall be Hamburg, Germany, where we have our administrative seat, unless we file suit in the city the Buyer has its seat.