

GENERAL TERMS OF SALE AND DELIVERY BODO EHMANN GMBH

§1 Scope of Application and General Provisions

- (1) Unless the supplier expressly and in written form agrees to other terms, these Terms of Sale and Delivery shall be applicable to the deliveries, services, and offers of Bodo Ehmann GmbH (hereinafter referred to as: the "Supplier") exclusively. These Terms of Sale and Delivery shall also be applicable when the Supplier is aware of conflicting terms of delivery or terms of delivery deviating from these Terms of Sale and Delivery of the buyer and delivers the goods without any reservation and/or accepts the order without any reservation.
- (2) The Terms of Sale and Delivery shall be applicable only if the buyer is an entrepreneur (section 14 German Civil Code, BGB), a legal person under public law, or a special fund under public law.
- (3) These Terms of Sale and Delivery shall also be applicable to all future contracts on the sale and/or the delivery of movables entered into with the buyer, and the Supplier shall not be obliged to make any reference to these Terms of Sale and Delivery in each individual case.

§2 Offer, Conclusion of Contract

- (1) The Supplier's offers shall be subject to confirmation and shall be non-binding unless the offer stipulates otherwise.
- (2) The buyer's order constitutes a legally binding offer for the conclusion of a contract.
- (3) A delivery contract shall be created only by the Supplier's written confirmation of an order which the Supplier can declare within two weeks of receipt of the buyer's order. Its contents shall be authoritative for the contents of the contract; if the buyer does not object immediately, the order confirmation's contents will be made the basis of the contract. If no order confirmation is made, a delivery contract (to which these Terms of Sale and Delivery shall be applicable) is created by making the goods available. In this case, the buyer disclaims receipt of a declaration of acceptance by the seller.

§3 Prices / Terms of Payment / Offsetting

- (1) Where the parties have not agreed otherwise in the individual case, the Supplier's prices shall be "EXW Mainhausen" plus VAT in the statutory amount valid at the time the invoice is issued. As a general rule, the prices valid at the time the offer is made shall be applicable.
- (2) If the value of an order is less than EUR 150.00 (net), the Supplier will invoice to the customer a surcharge for small quantities amounting to EUR 40.00.
- (3) Invoices are due for payment within 30 days of delivery of the goods and the date the invoice was issued and without deductions. Without prejudice to the aforesaid, the Supplier shall be entitled at all times, and without giving any reasons, to make a delivery only against matching payment with delivery.
- (4) If it is in the Supplier's reasonable interest, the Supplier may request that the customer effect payment prior to the start of the manufacturing process and/or dispatch. A reasonable interest occurs in particular in the case of a new customer's first order.
- (5) The buyer will be in arrears upon expiry of the period allowed for payment stated in section 3 (3) (30 days). If the buyer is in arrears, the Supplier shall be entitled to charge interest for arrears of payment amounting to eight (8) percentage points above the base lending rate. The claim to the commercial maturity interest (section 353 German Commercial Code, HGB) shall remain unaffected. The assertion of further or other damages shall not be excluded.
- (6) The Supplier reserves the right, if the buyer is in arrears with a payment, to stop further supplies from the same legal relation until all claims due from the respective legal relation are settled.
- (7) Incoming payments will be credited against the oldest debt at the time. For any and all payments, the day the Supplier is able to dispose of the amount shall be considered the day of performance.
- (8) Any and all payments must be effected in Euro (EUR).

§4 Retention of Title

- (1) The Supplier retains ownership in the delivery goods until receipt of all payments for claims which already existed at the time the respective contract was concluded.
- (2) The goods subject to retention of title must be stored separately from goods owned by the buyer or third parties and must be labelled in a way that they can be identified as owned by the Supplier. The buyer undertakes to insure the goods sufficiently at their value as new and at his cost against damage from fire, water, and theft.
- (3) The buyer shall be entitled to resell and/or process the goods subject to retention of title in the course of his routine business.
- (4) The buyer's claims from the resale of the goods subject to retention of title (including other claims such as insurance claims or claims based on tort in the case of loss or destruction) are hereby assigned to the Supplier as a security. The Supplier accepts the assignment. The buyer shall be entitled to collect the assigned claim so long as the buyer meets his payment obligations. The Supplier shall be entitled, if the buyer is in arrears with payment, to revoke the authorization to collect payment. In this case, the buyer shall be obliged to provide upon the Supplier's request all information to the Supplier necessary for the collection and to allow an inspection of the stocks of the claims assigned through his books by an authorized person as well as to inform the debtors of the assignment.
- (5) It is hereby agreed that if the goods subject to retention of title are processed by the buyer, processing shall be effected in the name of and for the accounts of the Supplier as manufacturer and that the Supplier will directly obtain ownership or – if processing is effected from or in connection with materials of several owners or if the value of the processed item exceeds the value of the delivered goods – joint ownership (fractional ownership) in the newly created item in the relation of the value of the ordered item to the value of the newly created item. The buyer hereby transfers to the Supplier in advance a co-ownership share corresponding to the pro rata value of the delivered item in the unitary item if the Supplier relinquishes ownership due to connection or combination or if the Supplier does not become owner of the manufactured item in the case of processing. The Supplier hereby accepts the offer. Handing over shall be replaced by safe custody at no charge.

- (6) The ordered items subject to retention of title may not be given in pledge or as a security to third parties until the secured claims are paid in full. The buyer shall be obliged to inform the Supplier immediately and in writing in the case of access by third parties to the Supplier's property.
- (7) The Supplier shall be entitled to withdraw from the contract in accordance with the statutory provisions and to demand the handing-over of the delivered goods in the case that the buyer is in arrears with payment, in the case of an application for the instigation of insolvency proceedings on the buyer's assets, a transfer of the future right to third parties, or the transfer of the buyer's business operations to third parties. If the buyer does not pay the purchase price due, the Supplier shall be entitled to assert these rights only after fruitlessly setting the buyer a reasonable time limit for effecting payment or if the statutory provisions do not require that such time limit be set. The Supplier shall have the right to enter the buyer's premises to request handing-over. The Supplier shall have the right to exploit the goods subject to retention of title at the Supplier's discretion after their repossession. The sales revenue must be credited to the buyer's debts (minus reasonable costs of exploitation).
- (8) The Supplier undertakes to release the securities that the Supplier is entitled to on the buyer's demand in so far as their value exceeds that of the claims to be secured, if these have not yet been settled, by more than 20%. It is at the Supplier's discretion to select the securities to be released.

§5 Dispatch

- (1) Unless agreed otherwise between buyer and Supplier for the individual case, delivery of the goods shall be effected "EXW Mainhausen".
- (2) If the Supplier, on the customer's demand, only ships part of the order, the Supplier shall be entitled to invoice the costs for packaging and delivery payable based on the share of the order value that corresponds to that part.
- (3) If delivery is delayed due to an instruction by the buyer and/or delivery on demand is agreed in an individual case and the buyer does not demand delivery within 14 days from notification that the goods are ready for dispatch, the goods will be kept safe or stored at the Supplier's premises at the buyer's risk and cost and invoiced as delivered "EXW Mainhausen".

§6 Deliveries / Delivery Period

- (1) The dates of the deliveries shall be agreed by the parties. When the parties have agreed a period for delivery, such period shall commence on the date of the written order confirmation or – where there is no such order confirmation – the day the goods are made available. The term for delivery shall be deemed complied with when, by the date of its expiry, the ordered item has left our works and/or readiness for dispatch has been reported via a notification that the goods are ready for dispatch.
- (2) Compliance with the agreed periods for delivery and performance requires the timely receipt of any and all documents to be supplied by the buyer as well as the timely provision of all information required and compliance with all other obligations by the buyer. The time periods shall be reasonably extended if the above conditions are not met in time; this shall not apply if the Supplier is responsible for the delays.
- (3) If the Supplier sees that an agreed deadline cannot be met, the Supplier will immediately notify the buyer.
- (4) The Supplier shall not be liable for delays in delivery which are due to acts of god or other events which could not be foreseen at the time of conclusion of the contract at the Supplier's premises or the premises of a supplier for which the Supplier is not responsible (such as strikes, lockouts, interruptions of operations, incoming deliveries not made in time, delays in transport, unfavourable weather conditions, administrative restrictions, government interventions, monetary or trade policy measures, natural disasters, fire, floods, piracy, obstruction of transport routes etc.). The delivery period shall be extended by the time of duration of the temporary impediment to performance for which the Supplier is not responsible.

- (5) The Supplier shall be entitled to effect partial deliveries where (i) the buyer can make use of the partial delivery under the definition of the contractually agreed intended purpose, (ii) delivery of the other goods is guaranteed, and (iii) this does not result in any extra costs for the buyer.

- (6) Any claims for damages for objective impossibility of the delivery or delays in delivery shall be limited in accordance with the provisions of 8(6) of these General Terms of Sale and Delivery.

§7 Retention of the Right of Withdrawal

- (1) The Supplier shall be entitled to withdraw from the contract if acts of god, strikes, natural disasters or missing, incorrect, or untimely supplies by a subsupplier substantially complicate or make impossible the delivery and this impediment for which the Supplier is not responsible is not merely temporary.
- (2) The Supplier shall be entitled to withdraw from the contract if the buyer has given incorrect or incomplete information on the facts determining his creditworthiness.

§8 Warranty / Damages / Liability

- The statutory provisions shall be applicable to the buyer's rights in case of material defects and defects in title except as follows.
- (1) The buyer shall be obliged to inspect the goods received for defects immediately upon receipt. The buyer shall be obliged to inform the Supplier in writing of any obvious defects immediately, within ten (10) working days (Monday to Friday) after receipt of the delivery, and of any hidden defects immediately, within seven (7) working days of discovery. Otherwise the delivery shall be deemed accepted.
 - (2) The buyer shall be obliged to allow for a review of the complaint by the Supplier, including but not limited to making the goods which are the subject of the complaint and its packaging available for an inspection by the Supplier. On the Supplier's demand, the goods subject to complaint must be returned to the Supplier free of freight charges within 14 days. If the complaint of defect is justified, the Supplier shall pay the costs for the cheapest transportation; this shall not apply if the goods are located in a place other than the place of their proper use.

- (3) If there is a defect, the Supplier shall be entitled, in the Supplier's choice, to effect subsequent performance by curing the defect or to deliver a new item without defect.
- (4) There shall be no warranty if the buyer, without the Supplier's consent, changes the ordered item or has it changed by third parties and this makes impossible or intolerably complicates the remedy of the defects. The buyer, in any case, shall bear the additional costs of the remedy of the defects incurred by the change.
- (5) If subsequent improvement or delivery of a replacement is impossible, is refused, is not effected or fails within a reasonable time period set by the buyer for other reasons for which the Supplier is responsible, the buyer shall be entitled, at the buyer's discretion, to withdraw from the contract or reduce the purchase price. No deadlines need to be set where this is not required by law.
- (6) Any claims of the buyer going beyond the above claims, including but not limited to claims for damages in lieu of performance and for compensation of other direct or indirect damage – including accompanying damage or consequential damage, independent of the cause of law - shall be excluded. This shall not apply if

- a) the Supplier has fraudulently concealed a defect in title or material defect or has given an express guarantee for the absence of said defects or for the goods' quality;
- b) the damage is the result of intent or gross negligence on the part of the Supplier, one of its legal representatives, or persons employed by the Supplier in performing its contractual obligations or a negligent infringement of essential contractual obligations by the Supplier or these persons. Essential contractual obligations are obligations which must be complied with in order to allow due performance of the contract in the first place and on whose compliance the contractual partner routinely relies and may rely. In the case of a slightly negligent infringement of essential contractual obligations, the Supplier's duty to compensate material damage or loss shall, however, be limited in its amount to the foreseeable damage typical of this type of contract.
- c) a culpable infringement of an obligation by the Supplier or its legal representatives or persons employed by the Supplier in performing its contractual obligations has led to an injury to body or health;
- d) there is liability under the Act on Product Liability.

- (7) The provisions of the above section shall apply accordingly to direct claims of the buyer against the Supplier's legal representatives and persons employed by the Supplier in performing its contractual obligations.
- (8) The legal provisions on final delivery to a consumer (supplier's recourse according to sections 478 and 479 German Civil Code, BGB) shall remain unaffected in all cases.

§9 Limitation of Actions

- (1) Claims for defects are subject to the limitation periods stipulated in section 438 German Civil Code, BGB.
- (2) All claims which are exempt from the exclusion of liability under 8(6) , as well as material claims for surrender, if any, shall be subject to the statute of limitation.
- (3) All other claims between the contractual parties shall be statute-barred within a period of one year from the statutory beginning of the period.

§10 Copyright / Secrecy

- (1) The Supplier shall reserve ownership rights and copyrights in all offers and cost estimates it submits as well as drawings, images, construction plans, calculations, brochures, and other documents (joint "documents"). The buyer shall not, without the express consent of the Supplier, make these or their contents accessible to third parties, nor shall the buyer publish or copy them. They must be used exclusively in connection with the delivery. The above documents must immediately be returned to the Supplier by the customer on the Supplier's request.
- (2) If the Supplier provides the customer with standard software from the Supplier, the customer shall receive the non-exclusive right to use this software in the agreed scope and in an unchanged form on the devices agreed between the parties. The customer shall neither give the software to third parties for use nor make it accessible to third parties.

§11 Place of Performance / Place of Jurisdiction / Language / Applicable Law / Other

- (1) Unless expressly agreed otherwise, place of performance shall be the Supplier's place of business.
- (2) The exclusive – also international – place of jurisdiction for any and all disputes from the delivery relation shall be Frankfurt am Main, Federal Republic of Germany. The Supplier shall be entitled to sue the buyer also at the buyer's place of jurisdiction.
- (3) The law of the Federal Republic of Germany shall be applicable. The UN Sales Convention does not apply.
- (4) If any one or more of the provisions of these General Terms of Sale and Delivery should in part or in whole be null and void or ineffective, this shall not affect the validity of the remaining provisions.

As of: [01/2018]
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