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I. General information

1. These terms and conditions as well as any and all separate contractual agreements shall be deemed as a basis for all deliveries and services. No deviating terms and conditions of purchase of the Buyer shall become part of the contract even when an order is accepted. A contract shall – in the absence of a separate agreement – materialise upon receipt of the written order confirmation from the supplier.

2. The Supplier reserves the rights to property and copyright for samples, cost estimates, sketches, etc., information of a physical and immaterial type – even in electronic form; they may not be made accessible to third parties. The Supplier undertakes to obtain the prior consent of the Buyer before making any information and documents described as confidential by the Buyer accessible to third parties.

II. Price and payment

1. In the absence of a separate agreement the prices shall apply ex works including loading in the works, however excluding packaging and unloading. The prices do not include the applicable rate of value added tax.

2. In the absence of a special agreement the payment for moulds and machines shall be made without any deduction onto the account of the Supplier and indeed:

- 30 % when placing the order
- 30% with the Supplier's declaration on readiness of dispatch
- 30 % 30 days after delivery
- 10 % 30 days after commissioning, however, 60 days after delivery at the latest

Invoices for spare parts and invoices for services shall be due and payable within 30 days without deduction.

3. The Buyer shall insofar only be entitled to the right to retain payments or to set off against counter claims if his counter claims shall be undisputed or have been declared final.

III. Time of delivery, delay in delivery

1. The time of delivery may be derived from the agreements of the contractual parties. The observance of the time by the Supplier presumes that all commercial and technical questions have been clarified between the contractual parties and the Buyer shall have fulfilled all obligations, for which he is responsible, such as e.g. provision of the necessary official certificates or permits or has made a down payment. If this is not the case, then the delivery time shall be extended by a reasonable extent. This shall not apply insofar as the Supplier is responsible for the delay.

2. The observance of the delivery period shall be subject to the correct and timely self-delivery.

3. The delivery period shall be deemed as observed if the delivered object has left the Supplier's plant before expiry of the period or notification has been given that the goods are ready for delivery. Insofar as the goods are to be approved - except with justified refusal of approval – the approval date shall be decisive, alternatively the notification that the goods are ready for approval.

4. In the event that the dispatch or the approval of the delivered object shall be delayed for reasons for which the Buyer shall be responsible then he shall be charged the costs incurred through the delay beginning one month after notification has been given that the goods are ready for dispatch or approval.

5. In the event that the non-observance of the delivery time shall be due to force majeure, industrial disputes or any other events, which are outside of the sphere of influence of the Supplier then the delivery time shall be extended accordingly. The Supplier shall inform the Buyer of the occurrence and the end of such circumstances as soon as possible.

6. The Buyer shall be entitled to rescind from the contract without notice if it shall be finally deemed impossible for the Supplier to perform the full service before passing of risk. In addition to this, the Buyer may rescind from the contract if it shall be impossible to execute a part of the delivery of an order and he shall have a justified interest in refusing the part delivery. If this is not the case then the Buyer shall pay the contractual price due for the part delivery. The same shall apply in the case of incapacity of the Supplier. Incidentally, Section VII. 2 shall apply.

Should the impossibility or the incapacity occur during the delay in acceptance or should the Buyer be exclusively or mainly responsible for these circumstances he shall be obliged to pay a consideration.

7. Should the Supplier be in default and the Buyer be entitled to damages from this then he shall be entitled to demand a flat rate compensation for default. It shall amount to 0.5% for each full week of the delay, in total however a maximum of 5 % of the value of that part of the total delivery which cannot be used in time or as per contract owing to the delay.

Should the Buyer grant to the Supplier in default a reasonable deadline for performance – taking into account the statutory exceptional cases – after due date and should the deadline not be met, the Buyer shall be entitled to rescind from the contract within the framework of the statutory regulations. Further claims from delay in delivery are determined exclusively according to Section VII.2 of these terms and conditions.

IV. Passing of risk, approval

1. The risk shall pass onto the Buyer if part deliveries take place or the Supplier has assumed responsibility for other services, e.g. the dispatch costs or delivery and installation. Insofar as an approval has taken place this shall be decisive for the passing of risk. It must be carried out immediately on the approval date, alternatively after notification by the Supplier that the goods are ready for approval. The Buyer may not refuse approval in the case of an insignificant fault.

2. In the case that the dispatch or approval is delayed or omitted owing to circumstances which cannot be attributed to the Supplier the risk shall pass to the Buyer from the date of the notification that the goods are ready for dispatch or approval. The Supplier undertakes at the cost of the Buyer to take out any insurances, which he may demand.

3. Part deliveries are permitted insofar as reasonable for the Buyer.

V. Reservation of title

1. The Supplier reserves the rights to the property of the delivered object until receipt of all payments from the contract of delivery.

2. The Supplier shall be entitled to insure the delivered object at the cost of the Buyer against theft, breakage, fire, water and other damages insofar as the Buyer shall not have taken out any such insurance and have provided proof of such.

3. The Buyer may neither sell, pledge nor assign as collateral the delivered object. He shall inform the Supplier immediately in case of pledges and confiscation or other disposals by a third party.

4. In case of any conduct of the Buyer which is in breach of the contract, in particular in case of default of payment, the Supplier shall be entitled to take the delivered object back after warning and the Buyer is obliged to return this. The assertion of the retention of title as well as the distraint of the delivered object by the supplier are not considered a contract cancellation.

5. The application for initiation of insolvency proceedings entitles the Supplier to rescind from the contract and to demand the immediate return of the delivered object.

VI. Warranty

The Supplier shall provide warranty for defects of quality and defects in title of the delivery under the exclusion of further claims – subject to Section VII. – as follows:

Defects of quality

1. All parts, which prove to be faulty owing to a circumstance before passing of the risk, are to be improved free of charge at the choice of the Supplier or redelivered. The detection of such faults is to be reported to the Supplier immediately in writing. Replaced parts shall become the property of the Supplier.

2. The Buyer shall give the necessary time and opportunity to undertake all improvements and replacement deliveries which may appear necessary to the Supplier after consultation with the Supplier; otherwise the Supplier shall be released from the liability for the ensuing consequences. Only in urgent cases with risk of danger to the operational safety or to prevent disproportionately high damages, whereby the Supplier is to be notified immediately, the Buyer shall be entitled to correct the faults himself or have these corrected by third parties and to demand that the Supplier reimburse the necessary expenses.

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3. Of the direct costs incurred through the improvement or the substitute delivery the Supplier shall bear – insofar as the complaint turns out to be justified – the costs of the replacement including dispatch. He shall in addition to this bear the costs for the dismantling and installation and moreover, if this can be justly demanded as the case may be, the costs for providing any necessary fitters and assistants.

4. Within the framework of the statutory regulations the Buyer shall be entitled to rescind from the contract if the Supplier – taking into account the exceptional cases laid down by law – allows a reasonable deadline set to him for the improvements or substitute delivery due to a defect of quality to pass unsuccessfully. In the event that only an insignificant fault exists the Buyer shall merely be entitled to reduce the contractual price. The right to reduction of the contractual price remains otherwise excluded.

5. No warranty shall be assumed in particular in the following cases:

- Unsuitable or improper use,
- faulty assembly or commissioning by the Buyer or third party,
- natural wear and tear,
- faulty or negligent treatment,
- improper service,
- unsuitable production equipment and facilities,
- faulty building work,
- unsuitable building substance,
- chemical, electrochemical or electrical influences, insofar as the Supplier is not responsible of them
- delivery of used machines.

6. In the event that the Buyer or a third party shall make improper improvements the Supplier shall not be liable for the ensuing consequences. The same shall apply for any changes to the delivered object carried out without the prior consent of the Supplier.

Defects in title

7. If the use of the delivered object results in the infringement of industrial property rights or copyrights in the domestic country, the Supplier shall at his costs principally procure the Buyer the right to the further use or modify the delivered object in such a way reasonable for the Buyer that the infringement of the industrial property rights no longer exists. If this is not possible at commercially reasonable conditions or within an appropriate deadline the buyer shall be entitled to rescind from the contract. Under the given pre-requisites the Supplier shall also be entitled to rescind from the contract. In addition to this, the Supplier shall release the Buyer from undisputed or legally declared claims of the owners of the industrial property rights concerned.

8. The obligations of the Supplier stated in Section VI. 7. are subject to Section VII. 2. conclusively in the event of the infringement of industrial property rights or copyrights.

They shall only exist if

- the Buyer informs the Supplier immediately of asserted infringements of industrial property rights or copyrights,
- The Buyer supports the Supplier to a reasonable extent in defending the asserted claims or allows the Supplier to execute the measures for modification according to Section VI. 7.

The Supplier reserves the right to all measures for defence including extra-judicial provisions,

- the legal defects are not based on instructions of the Buyer and
- the infringement of right was not caused due to the fact that the Buyer independently changes the delivered object or has changed this in a way not as per contract.

VII. Liability

1. If the delivered object may not be used as per contract by the Buyer due to a fault of the Supplier owing to the omission or faulty execution of proposals made and advice given before or after conclusion of contract or through the infringement of other secondary contractual obligations – in particular instructions for operation and service of the delivered object – then the provisions of sections VI. And VII. 2 shall apply accordingly by exclusion of further claims of the Buyer.

2. For damages not incurred to the delivered object itself the Supplier shall be liable – for no matter what legal reasons – only

- a. in case of wilful intent,
- b. in case of gross negligence of the owner / the bodies or executives,
- c. in case of negligent injury to life, body, health,
- d. in case of faults, which he maliciously did not disclose or if he guaranteed the absence of such,
- e. in case of faults to the delivered object insofar as liability is assumed according to the product liability act for physical or material damages to the privately used objects.

In case of a negligent breach of essential contractual duties the Supplier shall also be liable in case of gross negligence of non-executives and in case of slight negligence, in the latter case limited to those damages typical as per contract and reasonably foreseeable. All other claims are excluded.

VIII. Statute of limitations

All claims of the Buyer – for no matter which legal reasons – shall become statute-barred in 12 months. The statutory deadlines shall apply for wilful or fraudulent behaviour as well as in case of claims as per the product liability law. They shall also apply for defects to a building or for delivered objects, which were in line with their customary use used for a building and shall have caused such to be defect.

IX. Use of software

Insofar as the scope of delivery shall include software the Buyer shall be granted a non-exclusive and non-assignable right to use the delivered software including its documentation. It will be handed over for use for the delivered object intended for this. It is not permitted to use the software on more than one system.

The Buyer may only copy, revise, translate or convert the software from the object code to the source code in the scope as permitted by law (§§ 69 a ff. UrhG [Copyright Act]). The Buyer undertakes not to remove or change information on the producer – in particular copyright notices – without the prior express consent of the Supplier.

All other rights to the software and the documentation including the copies shall remain with the Supplier or the software supplier. It is not permitted to grant sub-licences.

X. Applicable law, place of jurisdiction

1. The decisive law of the Federal Republic of Germany for legal relations between domestic parties to each other shall apply exclusively for all legal relations between the Supplier and the Buyer.

2. Place of jurisdiction shall be the court of jurisdiction for the registered seat of the Supplier. The Supplier shall however be entitled to take action at the headquarters of the Buyer.