General Terms and Conditions of Business and Delivery of Saxonia-Franke GmbH & Co. KG, 73037 Göppingen

Art. 1 Scope

1. Our general terms and conditions apply exclusively. They apply to businessmen (14 BGB), legal entities of public law and special funds under public law. Differing general terms and conditions of the customer will not be accepted by us, unless we have agreed to their validity in writing. Our general terms and conditions are valid, even when we execute the delivery unconditionally while being aware of differing general terms and conditions of the customer.

2. These conditions apply also to all future business relations, even if they are not mentioned again specifically in agreements.

Art. 2 Offers, Contract Conclusion, Terms of a Contract

1. Our offers are subject to confirmation. We can accept contract offers within 4 weeks.

2. We reserve property and copyrights of illustrations and drawings, calculations and other files and documents; they may not be made accessible to third parties. This applies particularly to such files and documents which are marked as confidential; before passing them on to third parties the customer needs our express consent.

3. Documents, such as patterns, brochures, catalogues, illustrations, drawings, details about weights and measurements, are non-binding, insofar as they are not declared as binding explicitly in writing.

4. Cost estimates have to be paid for.

Art. 3 Prices, Terms of Payment, Prepayment, Right of Termination, Delay, Return, Right of Retention, Setting off, Counterclaim

1. Provided that nothing different is agreed upon, all prices are ex-works Göppingen, excluding freight, insurance, customs, fittings agreed upon, foreign taxes etc. plus the currently valid value added tax. In the case of delivery agreed upon, delivery is carried out free to kerbside at the unloading place agreed upon. In this case the customer has to provide the staff and equipment required for the unloading at his expense. In case of assembly work, supply connections esp. for power and water have to be provided by the customer at his expense. If an erection, assembly or commissioning agreed upon is delayed for no fault of ours, the customer has to bear the additional costs arising from it, particularly the costs for waiting time and further necessary journeys of our staff assigned for this.

2. Provided that nothing different is agreed upon, invoices to customers within the Federal Republic of Germany should be paid within 14 days after date of invoice less 2% cash discount or net at the latest within 30 days after date of invoice. Payment orders, cheques or bills of exchange are accepted only based on special agreement and always on account of performance. The costs for discounting and collection are debited to the customer.

3. If the customer is behind schedule by at least two instalments in case of part payments, then we are entitled to call in the whole claim, even if cheques or bills of exchange had been accepted. In this case the papers will be given back against immediate cash payment.

4. If, after concluding a contract, there is a significant deterioration or change in the financial circumstances of the customer, by which our claim to the counterperformance is endangered, or if such a situation already existed at the time of concluding the contract, but came to be known only later, then we can refuse our performance till the counterperformance takes place. This applies particularly to cases, in which unsuccessful enforcement measures, bill of exchange or cheque protests, application for own insolvency, moratorium endeavours, liquidation or similar actions have occurred. In these cases we can set a deadline to the customer for the provision of the counterperformance or surety. If the counterperformance or surety is not produced, we are entitled to terminate the contract.

5. Only accepted or legally established claims can be set off against our claims. Counterclaim is excluded. The customer is entitled to assert a right of retention only if and insofar as his claim is based on the same contractual relationship.

Art. 4 Release from Obligation to Perform, Delivery Time, Partial Delivery, Right of Termination, Damages due to Delay

1. Delivery is subject to punctual and correct supplies to us, insofar as we have not given any guarantee for a successful performance.

2. The beginning of the delivery time given by us presupposes the punctual receipt of all documents and information to be provided by the customer, as well as the clarification of all details of the order, particularly all technical questions, release of drawings, delivery if necessary of required parts to be provided etc. This also applies to assembly work. Partial deliveries are permitted as far as they are acceptable.

3. The delivery date has been met, if the delivery item has left the distribution warehouse on the delivery date or the customer has been informed about the readiness for shipment.

4. We are not responsible for delays in delivery due to acts of God or other circumstances not caused by us, particularly disruptions in traffic and operations for which we are not responsible, strikes, lockouts, shortage of raw material, war, insofar as we have not given a guarantee for successful performance. If in this case we cannot deliver within the delivery time agreed upon, then the delivery time is extended adequately. If in this case there exists an obstacle to delivery even after the delivery period has been extended adequately, then we are entitled to terminate the contract.

5. If we cannot keep to the delivery time agreed upon, the customer has to, on our request, declare within an adequate period, whether he continues to insist on the delivery. If he declares himself, we are entitled, after expiry of an adequate period, to terminate or cancel the contract.

6. If we are behind schedule, then the following applies:

a. If there is a firm deal or if the customer can assert, that his interest in the fulfilment of the contract has ceased to exist or the delay is based on a deliberate breach of contract caused by us, our representatives or our vicarious agents, then we are liable for damages caused by delay according to the legal regulations. In the case of a grossly negligent breach of contract on our part, our liability for damages caused by delay is restricted to the damage, which is foreseeable and which occurs typically.

b. If we, our representatives or our vicarious agents have violated an essential contractual obligation and no case of liability as per the legal regulations according to clause a. exists, our liability for damages caused by delay is restricted to the damage, which is foreseeable and which occurs typically.

c. In other cases our liability in case of delay is restricted to at most 5% of the delivery value.

d. Other legal claims of the customer are not excluded by this.

e. A reversal of the burden of proof is not related to the above regulations.

Art. 5 Passing on of Risk, Delivery

1. Provided that nothing else arises from the confirmation of order, delivery "ex works Göppingen" is agreed upon. The dispatch is always carried out at the risk of the customer, even for delivery from a place different from the place of performance and also in case of carriage free dispatch and / or dispatch by our staff or vehicles.

2. If delivery by us is agreed upon, then the customer has to provide competent staff and if necessary technical equipment (e.g. forklift) on time for ensuring a smooth unloading. It is assumed that the vehicle can drive right up to the unloading place and can be unloaded immediately. If these prerequisites are not present, the additional costs arising through this will be charged separately.

Art. 6 Claims for Defects

1. The customer should inspect the delivered goods, as far as it is feasible in the normal course of business, immediately after delivery. If a defect is detected, we should be notified immediately. If the customer refrains from notifying us, then the product is regarded as approved, unless it is a defect which could not be identified during the examination. If such a defect is detected later, then we should be notified immediately after the discovery, otherwise the product is regarded as approved even with regard to this defect. § 377 HGB remains untouched.

The customer is not relieved his obligation of inspection even in the case of the dealer's regress as per § 478 BGB. If, in such cases, he does not immediately notify the defect asserted by his buyer, then the product is regarded as approved even with regard to this defect.

2. Insofar as there is a defect, we are entitled to determine the type of supplementary performance after considering the type of the defect and the justified interests of the customer. A supplementary performance as per these contracts is deemed as failed after the third unsuccessful attempt. (This clause does not apply in the case of regress as per § 478 BGB).

3. In the case of supplementary performance for defects, we are obliged to bear the necessary charges, particularly shipping, handling, labour and material costs, only insofar as these do not increase due to the fact that the object was brought to a place other than the office or the commercial establishment of the customer, where the delivery was made. (This clause does not apply in the case of regress as per § 478 BGB).

4. The customer's claims for defects including the compensation claims become time-barred in a year. This does not apply in the case of regress as per § 478 BGB, furthermore this does not apply in the cases of §§ 438 para. 1 no. 2 BGB and § 634a para. 1 no. 2 BGB. This also does not apply for claims for compensation because of injury to life, body or health or due to a grossly negligent or deliberate violation of obligation by us or our vicarious agents.

5. The customer's claims for defects cannot be raised for defects not caused by us, which arise only after handing over to the customer, due to faulty handling, excessive use or unsatisfactory maintenance.

Art. 7 Liability for Compensation and Reimbursement of Expenses

1. The customer has no claim to compensation or the reimbursement of expenses (hereinafter: compensation claims), regardless of the legal grounds, in particular on account of a breach of duties under the contractual relationship or on account of tortious acts.

2. This does not apply

a. if we have maliciously failed to disclose a deficiency in title or material defect.

b. if we have offered a warranty of the condition of our product or successful performance and the warranty event has occurred.

c. for any claims that may exist under the German Product Liability Act (Produkthaftungsgesetz).

d. in cases of intent, gross negligence, loss of life, physical injury or damage to health or a breach of a cardinal duty. A compensation claim for a breach of cardinal duties is however limited to the damage which is foreseeable and typically occurs, except in the case of intent or gross negligence or if we are liable on account of loss of life, physical injury or damage to health.

3. If our liability is excluded or limited, this also applies for the personal liability of our salaried staff, employees, workers, representatives and vicarious agents.

4. The above provisions do not imply a reversal of the burden of proof to the detriment of the customer.

Art. 8 Supplementary and Differing Regulations in the case of International Contracts

1. If the customer has his office outside the Federal Republic of Germany, following regulations apply in addition to Art. 1-7 and 9:

a. We are not liable for the legitimacy of the use, as provided in the contract, of the delivered object according to regulations of the recipient country. We are also not liable for taxes due there.

b. We are not liable for delivery obstacles, caused by state measures, particularly import or export restrictions.

2. If the customer has his office outside the Federal Republic of Germany and if the Convention of the United Nations on Contracts for the International Sale of Goods (CISG, Viennese UN law of purchase) applies in its valid version, the following regulations are also valid:

a. Amendments to or deletions from the contract must be in writing.

b. Instead of Art. 6 and 7 the following applies:

aa. We are liable to the customer for compensation as per the legal regulations only if a breach of contract is based on a deliberate or grossly negligent breach of contract caused by one of us, our representatives or vicarious agents. We are also liable as per the legal regulations, provided that we have violated an essential contractual obligation. The above limitation of liability does not apply to possibly existing claims as per §§ 1, 4 of the German Product Liability Act or to claims due of injury to life or body of a person caused by the product.

bb. If the delivered objects of sale are contrary to the terms of the contract, then the customer has the right to cancellation of the contract or to replacement of the object only, if claims for compensation against us are excluded or it is unreasonable for the customer to dispose of the product, which is contrary to the terms of the contract, and assert the residual damage. In these cases we are entitled to first rectify the defects. If the rectification of the defect fails and/or it leads to an unreasonable delay, then the customer is entitled to declare the cancellation of the contract or to demand replacement, according to his choice. The customer is also entitled to this, if the rectification of the defect causes unreasonable inconvenience or there is uncertainty about the reimbursement of possible expenses of the buyer.

cc. The claims for defects by the customer are time-barred in one year.

Art. 9 Reservation of Property Rights

1. The ownership of the delivered product remains up to the receipt of all payments from the contract, in case of there being a regular business connection up to the receipt of all payments from this. This also applies then, if our claims are included in a running account and the balance is drawn and accepted as well as for future claims.

2. The customer is obliged to handle the delivered product carefully, particularly to store it professionally; furthermore he is obliged to insure it sufficiently at his own expense against the value of a new product against damages arising from fire, water and theft.

3. In case of attachments and other interventions of third parties the customer has to inform us immediately in writing, for protecting our rights (e.g. complaint as per § 771 ZPO). Insofar as the third party is not in a position to reimburse to us the legal or out-of-court costs of a complaint as per § 771 ZPO, the customer is liable to us for the resulting loss.

4. The customer has the right to resell and use the delivered goods in the course of normal business; however, he assigns - to the extent of the value of the reserved goods - now itself all claims to us, which he is entitled to against his buyers or third parties from the resale, and in fact independent of the fact, whether the delivered goods have been resold without or after modification. The final invoice amount (incl. VAT) agreed upon with us is regarded as value of the reserved goods. If the resold reserved goods is under our co-ownership, then the assignment of the claims extends to the amount which corresponds to our share in the co-ownership. The customer is not entitled to any other mode of disposal of the product, particularly hypothecation / pledging as security.

5. The customer remains entitled to the recovery of the claim from the resale even after the assignment. Our right to recover the claim ourselves, remains untouched by this. However, we agree not to recover the claim, as long as the customer meets his financial obligations from the proceeds received, is not in arrears of payment and especially if no application for opening of an insolvency procedure has been made or there is no stoppage of payments. If this is however the case, then we can demand that the customer informs us about the assigned claims and their debtors, gives all required details for collection, hands over the related documents and informs the debtors about the assignment.

6. The processing or alteration of the delivered goods by the customer is always carried out on our behalf. The expectancy right of the customer to the delivered goods continues on the altered object. If the delivered goods is reprocessed with other objects not belonging to us, then we acquire co-ownership of the new object in proportion of the objective value of the delivered goods to the other processed objects at the time of the processing. Moreover, the same applies to the object arising from processing as to the goods delivered under reservation.

7. If the delivered goods are inseparably mixed, blended or joined with other objects not belonging to us, then we acquire the co-ownership of the new object in proportion to the objective value of the delivered goods to the other objects at the time of mixing, blending or joining. If the process is carried out in such a manner that the object of the customer can be considered to be the main object, then it is regarded as agreed that the customer assigns pro rata co-ownership to us and maintains the sole ownership or co-ownership on our behalf, free of cost.

8. For securing our claims against him to the extent of the value of the reserved goods with all ancillary rights and ranking ahead of the rest, the customer also assigns those claims to us, which accrue to him against a third party due to use of the reserved goods as an essential component in a property, ship, ship structure or aircraft of another person. Art. 9 no. 4 s. 2 and 3 apply correspondingly.

9. For securing our claims against him to the extent of the value of the reserved goods with all ancillary rights and ranking ahead of the rest, the customer also assigns those claims to us, which he acquires by disposal his own property, ship, ship structure or aircraft, in which he has used the reserved goods as an essential component, to a third party. Art. 9 no. 4 s. 2 and 3 apply correspondingly.

10. We agree to release the security, which we are entitled to, on request of the customer, insofar as the realisable value of our securities exceeds the claims to be secured by more than 10% or the nominal value by more than 50%; the choice of the securities to be released is ours.

Art. 10 Applicable Law, Place of Performance, Place of Jurisdiction

1. The law of the Federal Republic of Germany applies to this contract.

2. The place of performance for all performances from this contract is 73037 Göppingen.

3. In case of contracts with merchants, legal entities of the public law, special funds under public law and with foreigners, who do not have any domestic place of jurisdiction, the place of jurisdiction is 73037 Göppingen. We however reserve the right to take legal action also at the office of the customer.

The manufacturer is, however, entitled to sue the dealer also in the court of his place of residence.

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