General Delivery Conditions

§ 1 Validity

(1) Our deliveries, services and offers are made exclusively on the basis of these General Terms and Conditions of Delivery. These are part of all contracts that we conclude with our contractual partners (hereinafter also referred to as “buyer”). They also apply to all future deliveries, services or offers to the buyer, even if they are not separately agreed again.

(2) No terms and conditions of the buyer or third parties apply, even if we do not specifically object to their validity in individual cases.

§ 2 Offer and conclusion of contract

(1) All our offers are subject to change and non-binding unless they are expressly marked as binding or contain a specific acceptance period.

(2) The purchase contract concluded in writing, including these General Terms and Conditions of Delivery, is solely authoritative for the legal relationship between us and the buyer. This fully reflects all agreements between the contracting parties on the subject matter of the contract. Any verbal commitments on our part prior to the conclusion of a written contract are not legally binding.

(3) Additions and amendments to the agreements made, including these General Terms and Conditions of Delivery, must be in writing to take effect. Telecommunications transmission, in particular by fax or email, is sufficient to comply with the written form.

(4) Due to the manual work invoiced, some of our products may leave the production line with different details and fillings. We reserve the right to make changes to the decor and fillings of all items. However, we guarantee that the character of the item will be preserved and the value of the goods will be retained.

§ 3 Prices and Payment

(1) The prices apply to the scope of services and deliveries listed in the order confirmations. Additional or special services will be charged separately. All prices are exclusive of VAT applicable on the day of delivery. Payments are due within 10 days of goods receipt.

(2) Offsetting against counterclaims by the buyer or withholding payments due to such claims is only permitted if the counterclaims are undisputed or have been legally established.

(3) We are entitled to carry out outstanding deliveries or services only against advance payment or security if, after conclusion of the contract, we become aware of circumstances which are likely to significantly reduce the creditworthiness of the buyer and which endanger the payment of our outstanding claims from the respective contractual relationship (including from other individual orders to which the same framework agreement applies).

§ 4 Delivery and delivery time

(1) Deliveries are made ex works.

(2) Periods and dates for deliveries and services promised by us are always approximate, unless a fixed period or a fixed date has been expressly promised or agreed.

(3) We are not liable for the impossibility of delivery or for delays in delivery, insofar as these are caused by force majeure or other events that were not foreseeable at the time the contract was concluded and for which we are not responsible. If such events make the delivery or service significantly more difficult or impossible for us and the hindrance is not merely temporary in nature, we are entitled to withdraw from the contract. In the case of hindrances of a temporary duration, the delivery or service deadlines are extended or the delivery or service dates are postponed by the period of the hindrance plus a reasonable start-up period. If the buyer cannot reasonably be expected to accept the delivery or service as a result of the delay, it can withdraw from the contract by means of an immediate written declaration to us.

(4) If we are in default with a delivery or service or if a delivery or service becomes impossible for us, for whatever reason, our liability for damages is limited in accordance with Section 7 of these General Terms and Conditions of Delivery.

§ 5 Place of Performance, Dispatch, Packaging, Passing of Risk, Acceptance

(1) The place of performance for all obligations arising from the contractual relationship is Osnabrueck, unless otherwise specified.

(2) The mode of dispatch and packaging are at our discretion.

(3) Insofar as an acceptance has to take place, the purchased item is deemed to have been accepted when the delivery has been completed.

§ 6 Warranty, Material Defects

(1) The warranty period is one year from delivery or, if acceptance is required, from acceptance.

(2) A prerequisite for any warranty rights of the buyer is its proper fulfilment of all inspection and complaint obligations owed according to § 377 German Commercial Code.

(3) In the event of material defects in the delivered items, we are initially obliged and entitled to choose between repairs or a replacement delivery within a reasonable period of time. In the event of failure, i.e .impossibility, unreasonableness, refusal or unreasonable delay in rectification or replacement delivery, the buyer can withdraw from the contract or reduce the purchase price appropriately.

(4) The warranty does not apply if the buyer changes the delivery item or has it changed by a third party without our consent and this makes it impossible or unreasonably difficult to remedy the defect. In any case, the buyer must bear the additional costs of remedying the defect arising from the change.

§ 7 Liability for damages due to negligence

(1) Our liability for compensation for damages, regardless of the legal reason, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations during contract negotiations and tortious acts, insofar as fault is involved, is limited in accordance with this Section 7.

(2) We are not liable in the case of simple negligence on the part of our organs, legal representatives, employees or other vicarious agents, unless there is a breach of essential contractual obligations.

(3) Insofar as we are liable for compensation for damages in accordance with Section 7 para. 2, this liability is limited to damages that we have foreseen as a possible consequence of a breach of contract when the contract was concluded or that we should have foreseen if we had applied due diligence. In addition, indirect damage and consequential damage resulting from defects in the delivery item can only be compensated insofar as such damage is typically to be expected when the delivery item is used as intended.

(4) In the event of liability for simple negligence, our liability for property damage and the resulting further financial losses is limited to an amount of €1 million per claim, even if it concerns a breach of essential contractual obligations.

(5) The above exclusions and limitations of liability apply to the same extent in favour of our organs, legal representatives, employees and other vicarious agents.

(6) Insofar as we act in an advisory capacity and information or advice is not part of the contractually agreed scope of services owed by us, these are provided free of charge and to the exclusion of any liability.

(7) The limitations of this Section 7 do not apply to our liability for wilful conduct, guaranteed characteristics, injury to life, limb or health, or under the German Product Liability Act.

§ 8 Retention of title

(1) The retention of title agreed below serves to secure all current and future claims against the buyer to which we are entitled from the supply relationship existing between us, including balance claims from a current account relationship limited to this supply relationship.

(2) The goods delivered by us to the buyer remain our property until all secured claims have been paid in full. The goods and the goods covered by the retention of title that take their place in accordance with the following provisions are hereinafter referred to as “reserved goods”.

(3) The buyer keeps the reserved goods for us free of charge.

(4) The buyer is entitled to process and sell the reserved goods in the ordinary course of business until the event of enforcement (paragraph 9). Pledges and assignments as security are not permitted.

(5) If the reserved goods are processed by the buyer, it is agreed that the processing is carried out in our name and for our account as the manufacturer and that we have direct ownership or - if the processing is carried out from materials from several owners or the value of the processed item is higher than the value of the reserved goods - and we acquire co-ownership (fractional ownership) of the newly created item in the ratio of the value of the reserved goods to the value of the newly created item. In the event that we do not acquire such ownership, the buyer hereby assigns to us by way of security his future ownership or - in the above ratio - co-ownership of the newly created item. If the reserved goods are combined with other items to form a single item or are inseparably mixed and one of the other items is to be regarded as the main item, we shall transfer to the buyer, insofar as the main item belongs to us, proportionate co-ownership of the single item in the ratio specified in sentence 1.

(6) In the event of the resale of the reserved goods, the buyer hereby assigns to us as security the resulting claim against the purchaser - in the case of our co-ownership of the reserved goods in the ratio of the co-ownership share. The same applies to other claims that take the place of the reserved goods or otherwise arise with regard to the reserved goods, such as insurance claims or claims from tortious acts in the event of loss or destruction. We revocably authorise the buyer to collect the claims assigned to us in their own name. We may revoke this direct debit authorisation in the event of realisation. In this case, the buyer must inform us comprehensively about the rights it is entitled to against its customers (name, address, amount and due date of the claims).

(7) If third parties gain access to the goods subject to retention of title, in particular by way of seizure, the buyer shall immediately notify them of our ownership and inform us thereof in order to enable us to enforce our ownership rights. If the third party is not in a position to reimburse us for the court or out-of-court costs incurred in this context, the buyer shall be liable for these.

(8) We will release the reserved goods and the items or claims replacing them on request if their value exceeds the amount of the secured claims by more than 20 %. The selection of the items to be released thereafter is up to us.

(9) If we withdraw from the contract in the event of breach of contract by the buyer - in particular default of payment - (case of enforcement), we are entitled to demand the return of the reserved goods and to assert all other claims to which we are entitled. In such a case, we shall only withdraw from the contract if we expressly declare this.

§ 9 Final Provisions

(1) If the buyer is a merchant, a legal entity under public law or a special fund under public law, or if the buyer does not have a general place of jurisdiction in the Federal Republic of Germany, the place of jurisdiction for any disputes arising from the business relationship between us and the buyer is Osnabrueck. Mandatory legal provisions on exclusive places of jurisdiction remain unaffected by this regulation.

(2) German law applies to the exclusion of the UN Sales Convention.

(3) Insofar as the contract or these General Terms and Conditions of Delivery contain loopholes, the legally effective regulations that the contractual partners would have agreed according to the commercial objectives of the contract and the purpose of these General Terms and Conditions of Delivery if they had known of the loopholes shall be deemed to have been agreed to fill these loopholes.

Note: The buyer acknowledges that we store data from the contractual relationship in accordance with Section 28 of the German Privacy Act for the purpose of data processing and that we reserve the right to transmit the data to third parties (e.g. insurance companies) if this is necessary for the fulfilment of the contract.