FOSECO

General Terms of Delivery (Dated 01/2016)

1. General

1.1. The following delivery conditions apply to all deliveries, including for future business transactions. Opposing and/or deviating conditions from the ordering party are not acknowledged, unless we have explicitly agreed validity in writing. These delivery terms count as accepted upon acceptance of our goods at the latest.

1.2. Our Terms & Conditions of Delivery apply only to entrepreneurs, business persons, and legal entities under public law and special funds.

2. Quotations

Quotations are without obligation. The order only takes effect with a written order confirmation or delivery.

3. Scope of supply

3.1. The written acknowledgment from both parties is decisive for the scope of delivery. If one is not available, our written order confirmation is decisive.

3.2. Documents belonging to the quotation such as illustrations, drawings and weight details are only approximate unless they are explicitly marked as binding. Information on percentage content and mix ratios for the goods, especially our formulas, are only to be viewed as approximate averages. We reserve the proprietorship and copyright laws on our costing estimates, drawings and other documents; they may not be made accessible to third parties. All drawings and other documents belonging to quotations are to be immediately returned to us upon request if the order is not placed.

3.3. The calculation for any sale by weight shall be based on the weight as determined by us or the railway official in charge, unless otherwise stipulated.

4. Prices

Unless otherwise agreed, prices shall be deemed ex works prices plus value-added tax (VAT) at the current rate. The prices we state in our quotations or acceptance of order are based on the raw material prices, labour, fiscal and social security taxes, freight rates, etc. applicable to the cost of goods sold when contracting. If these or other cost elements change by the time of delivery, we are entitled to commensurately raise our prices.

5. Passage of risk

The risk transfers to the ordering party as soon as the goods have been handed over to the freight forwarder or have left the factory or warehouse. This also applies if we are covering the transport costs. We carefully select a suitable transport medium, which we use in our own interests. We can arrange transport assurance at the cost of the ordering party, but we are not obliged to provide insurance.

6. Delivery

The goods will be delivered within the agreed delivery period ex works or warehouse. Partial shipments are permitted and shall be deemed self-contained deliveries. Any circumstance beyond our control which renders the manufacture or supply and delivery of goods ordered either impossible or difficult - including any action taken by a government agency or other public authority, plant or equipment breakdown or failure, unforeseeable shortage of labour, raw-material scarcity (whether in our works or at the facilities of any of our suppliers, subcontractors, utilities or providers), non-availability of transportation or energy, war, strike, lockout will release us from the obligation to supply and deliver, as long as such circumstance or its aftermath continues. If, in any such event, the agreed delivery deadline is exceeded by more than double the original period or by 6 weeks (whichever is longer), either party may rescind and cancel that part of the contract which is affected thereby. The rights to rescind for other reasons remain unchanged by this. If we default delivery, the ordering party, after the lapse of a reasonable respite granted in accordance with statutory regulations, may withdraw from the contract to the extent that the underlying goods have not been notified ready for shipment by the expiration of said respite.

7. Liability for defects

7.1. For defects in the goods at the date of the passage of risk, we perform, initially according to our selection, subsequent fulfillment through improvement repair or replacement delivery. Claims arising because of defects in the goods, incorrect deliveries and variances of quantity - also excess deliveries - are to be notified immediately in writing, as far as these are detectable through reasonable investigations, however 14 days at the latest after receipt of the goods.

7.2. In the case of failure, i.e. impossibility, infeasibility, rejection or inappropriate delay of the improvement or the placement delivery, the ordering party can withdraw from the contract or appropriately reduce the purchase price.

7.3. If the defect is based on our own culpability, the ordering party can demand replacement of damages if the pre-requisites stated in point 10 apply.

7.4. The defect claims expire in one year from delivery of the goods. Deviating from this, defect claims expire in two years in circumstances where the usual use of the building has applied and has caused the defects. However, this does not apply if the circumstance has applied after expiry of the expiry period stated in point 7.4. S.1. In these cases, any defect claims expire one year after delivery.

7.5. If a used object is sold, we are not liable for possible defects unless we have willfully concealed the deficiencies.

7.6. As composition of the goods, only the manufacturer's product description fundamentally applies. Public representations, extolling or advertising by the manufacturer do not represent any contract-appropriate composition information of the goods.

7.7. The ordering party does not receive guarantees from us in a legal sense.

8. Payment

8.1. Payment is, if not agreed otherwise, to be made without deductions. In case of delay the legal regulations are valid.

8.2. If the creditworthiness of the ordering party is lost, we are entitled to choose between advance payment or securities, withdraw from the contract and withdraw awarded payment terms. In case of the ordering party delaying payment, initiation of, or application for the initiation of insolvency proceedings against the purchaser's assets, the corresponding applies, whereby an appropriate deadline is to be set for payment delay before withdrawal from the contract.

8.3. In case of the ordering party delaying payment, we are entitled to demand immediate handover of goods under our proprietorship without exercising our right to withdrawal and without setting a deadline at the cost of the ordering party.

8.4. The ordering party is only entitled to offsetting if the counterclaims are undisputed or legally established. The ordering party is only entitled to retain if the counterclaims are based on the same contractual relationship.

9. Seller's lien and reservation of title

9.1. Deliveries remain our property until full payment of all claims against the ordering party, from whichever legal reason. The retained ownership from outstanding invoices count as security for our balance claim.

9.2. The ordering party is entitled to the use and resale of items under reservation of title. The purchaser hereby surrenders all claims from the resale of goods to us. We accept the surrender. This also applies to goods that are processed, mixed or connected. If the ordering party includes the claim from the resale of goods from us into an existing current account relationship with his customer, the ordering party's current account claim is surrendered in full. We will not disclose the surrender as long as the ordering party fulfils the payment obligations. If we request this in an individual case, the ordering party must disclose the names of his customers and inform them of the surrender. The ordering party is entitled to personally collect the surrendered claims from the resale, whereby we are always entitled to revoke this right.

9.3. The goods under reservation of title may only be pledged or given as security with our previous agreement. If the supplied goods are processed by the ordering party, processing is undertaken for us. When processing, binding and mixing the supplied object with other objects that are not our property, we gain joint ownership of the new item in relation of the value of the purchase item (final invoice amount including VAT) to the other processed/combined/mixed objects at the time of processing, binding or mixing. The ordering party keeps the sole proprietorship or joint proprietorship for us. If the mixing or binding takes place in a way that the ordering party's item can be viewed as the main item, it is agreed that the ordering party transfers relative joint ownership to us and maintains it for us.

9.4. We are obliged to release securities at the request of the ordering party if the value of our securities exceeds the amount to be secured by more than 10%; we are entitled to choose the security to be released.

10. Liability

10.1. Our liability for replacement damages is, if we are culpable, restricted according to closer stipulation of the terms of this point 10.

10.2. We are not liable in the case of simple negligence by our bodies, legal representatives, employees or other agents as long as it does not deal with a violation of essential contract obligations. Essential to the contract are the obligation for punctual delivery and installation of a defect-free delivery item as well as advice, protection and care that should allow the ordering party contractual use of the delivery item or serve the purpose of protection of life and limb of the purchaser's personnel or the protection of property against major damages.

10.3. If we are liable according to point 10.2 for replacement of damages, this liability is limited to damages that we have foreseen as a possible consequence of contract violation or must have foreseen when applying the usual care. Indirect damages and consequential damages that are the result of damages to the delivery item are only entitled to replacement if the damages can be typically expected despite proper use of the delivery item.

10.4. In the case of liability for simple negligence, our replacement obligation for property damages and the resulting further assets damages is limited to the amount of double the amount of annual turnover for permanent customers in the previous business year and, for individual customers, ten times the amount of the order turnover with us from which the damages result, even if the above applies to a violation of an essential contract obligation.

10.5. The above liability exclusions and restrictions apply in the same extent in favour of our bodies, legal representatives, employees and other agents.

10.6. If we provide technical information or give advice and this information or advice is not part of the owed, contractually agreed scope of services, this takes place without charge and under exclusion of any liability.

10.7. The restrictions in this point 10 do not apply to our liability due to intentional conduct, for guaranteed property features, due to fatal injury, physical or health damages or according to the product liability law.

11. Compliance

The contractual partners are obligated to adhere to all existing laws and regulations. This applies in particular to adherence to domestic and foreign provisions for fighting corruption.

12. Final clauses

12.1. The place of performance for both contracting parties shall be the place of the registered office of our company; however, if dispatch of the goods is caused by us from any other place, such other place shall be the place of performance. General jurisdiction shall lie with the Amtsgericht or Landgericht having jurisdiction over the place of our registered office. However, we are also entitled to sue the ordering party at its general place of jurisdiction. Any mandatory statutory provisions regarding exclusive jurisdiction shall remain unaffected by this provision.

12.2. We are entitled to process data relating to the business relationship or in connected with the data received through the ordering party, whether they come from the ordering party or third parties.

12.3. German law applies to all legal relationships between ourselves and the ordering party; especially to international purchasers. The application of the standardised UN purchase law (CISG) is excluded.

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