

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF ERICH ROTHE GMBH & CO. KG

(Status as of 31/10/2022)

Sec. 1

General provisions

- (1) All our offers, contracts, deliveries and other services (hereinafter referred to as "Delivery") are based on these Terms and Conditions of Sale as well as any separate contractual agreements.
- (2) The Terms and Conditions are deemed accepted upon placement of the order or, at the latest, upon acceptance of the goods. We hereby expressly object to any other or supplementary terms and conditions of our customer; they only apply with our express written acceptance. Our Terms and Conditions of Sale also apply if we carry out Delivery to the customer without reservation in the knowledge that the customer's terms and conditions conflict with or deviate from our Terms and Conditions of Sale.
- (3) These Terms and Conditions of Sale only apply vis-à-vis companies within the meaning of Sect. 310 (1) of the German Civil Code (BGB) and vis-à-vis legal entities under public law or a special fund under public law.
- (4) A contract is only concluded once we confirm the order in writing or in text form.
- (5) If standard commercial terms are agreed, the rules of interpretation of the Incoterms in their latest version apply, unless otherwise stipulated below.
- (6) The invalidity of individual provisions of these Terms and Conditions of Sale does not affect the validity of the remaining provisions.
- (7) Deliveries short of or exceeding the order quantity are permissible, provided these are production-related and do not exceed +/- 10%.

Sec. 2

Price and payment

- (1) Our prices are in EUR and delivery FCA (agreed place of delivery), plus statutory VAT, transport and packaging costs.

- (2) Unforeseen changes in costs which we are not responsible for, such as raw material, wage and energy costs, entitle us to make appropriate price adjustments. In case of partial deliveries each delivery may be invoiced. If no prices were agreed when the contract was concluded, our prices applicable on the respective delivery day shall apply.
- (3) Our invoices are due immediately and payable without deduction. The deduction of any discount is only permissible with a separate written agreement.
- (4) The date of receipt of payment is the date on which we receive the amount or on which the amount is credited to our bank account. If the customer is in default of payment, we are entitled to charge interest at a rate of 9 percentage points above the base interest rate for the duration of the default, plus a flat rate of EUR 40 for late payment. The right to assert further claims for compensation is not limited thereby.
- (5) The customer is only entitled to offset or withhold payments if its counterclaim is undisputed or has been legally established. This restriction does not apply to claims by the customer for costs of remedy of defects or costs of completion.

Sec. 3

Delivery period, delay in delivery

- (1) The delivery period commences as soon as the contract has been concluded and all official formalities have been obtained or fulfilled. The delivery period is deemed to have been met if the delivery has been made or the customer has been notified of its readiness for dispatch by the expiry of the delivery period.
- (2) The delivery period is extended accordingly:
 - if we do not receive the information we need to fulfil the contract in time, or if the customer subsequently requests changes or additions;
 - if obstacles arise which we are unable to avert despite exercising due care, irrespective of whether they arise at our premises, at the customer's premises or at the premises of a third party. Such obstacles include export and import restrictions, boycott orders issued by governmental or supranational organisations, official measures or omissions; labour disputes and other operational disruptions beyond our control, epidemics, pandemics, natural events; hacker attacks and terrorist activities. Should such obstacles occur, we will promptly inform the customer of the extent and background and keep the customer up to date;
 - if the customer or third parties engaged by it are in default with the fulfilment of their contractual obligations or if the customer does not comply with the terms of payment.

- (3) The customer is entitled to claim compensation for delays for which we are demonstrably responsible, insofar as the customer can prove that it has suffered a loss. If the customer receives timely replacement, the claim no longer applies.
- (4) From the end of the second week of delay, the compensation amounts to a maximum of 0.3% for each full week of delay, but not more than 3% in total, based on the contract price of the delayed part of the delivery.
- (5) After the maximum compensation for delay has been reached, the customer may set us a reasonable grace period in writing. If this grace period is not met for reasons for which we are responsible, the customer is entitled to refuse acceptance of the delayed part of the delivery. If partial acceptance is economically unreasonable for the customer, it is entitled to withdraw from the contract and to reclaim payments already made against return of deliveries already made.
- (6) Further claims arising from delay in delivery are determined exclusively in accordance with Sec. 7, 8 of these Terms and Conditions.

Sec. 4

Transfer of risk, acceptance, packaging

- (1) Unless otherwise agreed in individual cases, the risk passes to the customer upon commencement of loading of the goods at the Kitzingen plant (Incoterms 2020 "FCA Kitzingen"), even if partial deliveries are made or if we have assumed other services as well, e.g. shipping costs or delivery.
- (2) If acceptance has been agreed, it must be carried out immediately on the agreed date. The customer may not refuse acceptance if there are no significant defects, provided that we expressly acknowledge our obligation to remedy the defects.
- (3) If dispatch or acceptance is delayed or does not take place as a result of circumstances for which we are not responsible, the risk of accidental loss or accidental deterioration of the delivery item passes to the customer from the date of notification of readiness for dispatch or acceptance. We undertake to take out the insurances that the customer requires, such as transport insurances, at the customer's expense.
- (4) Partial deliveries are permissible insofar as this is reasonable for the customer.
- (5) Transport and other packaging in accordance with the German Packaging Ordinance (Verpackungsverordnung) will not be taken back. The customer will arrange for disposal of the packaging at its own expense.

Sec. 5

Reservation of title, securities

- (1) We reserve title to all goods delivered by us until all of our claims, including conditional claims and ancillary claims, against the customer arising from our business relationship have been satisfied; in this respect, all Deliveries are deemed to be one continuous delivery transaction. In the case of a current account, the reserved title is deemed to be a security for our balance claim. The above provisions also apply to claims arising in the future. We are entitled to collect the goods without setting a further deadline if the customer violates essential contractual obligations, whereby the justified interests of the customer are to be taken into account appropriately. In this case, the customer hereby already agrees to the return of the goods. The collection only constitutes a complete or partial withdrawal from the contract if we expressly declare this. The costs incurred by us as a result of the collection (in particular transport costs) are borne by the customer. Insofar as we do not expressly declare withdrawal, the customer may only demand delivery after full payment of the purchase price and all costs.
- (2) The customer is entitled to resell, process or mix the goods in the ordinary course of business; however, in doing so, the customer hereby assigns to us all claims arising from the resale, processing, mixing or other legal grounds in connection with the goods (in particular from insurance contracts or tortious acts) in the amount of the final invoice amount agreed with us (including VAT). Use by the customer for the fulfilment of contracts for work and services or contracts for work and materials is deemed equivalent to the sale.
- (3) The reservation of title also extends to the full value of the products resulting from the processing, mixing or combining of our goods, whereby these processes are carried out for us, so that we are deemed to be the manufacturer of the product. If, in the event of processing, mixing or combining with goods of third parties, their ownership rights remain, we acquire co-ownership of the resulting product in proportion to the objective values of the processed, mixed or combined goods. If our ownership expires as a result of processing, combining or mixing, the customer hereby transfers to us the ownership or expectant rights to which it is entitled in the new product to the extent of the invoice value of the goods delivered by us and keeps this product for us free of charge.
- (4) The customer is entitled to resell the reserved goods in the ordinary course of business. In the event of the sale of the delivered goods or the reserved goods manufactured in accordance with Para. 3, the customer hereby assigns to us the claims arising from the sale against its clients (final invoice amount including value added tax) or a corresponding part with all ancillary rights until our claims have been settled in full.

- (5) The customer remains authorised to collect the claim assigned in accordance with Para. 4; our authority to collect the claim ourselves remains unaffected. We will not collect the claim as long as the customer fulfils its payment obligations from the collected amounts, is not in default of payment, and no application for the opening of insolvency proceedings or comparable proceedings under foreign law has been filed or payments have been suspended. If this is the case, the customer is obliged, upon first written request, to inform us of the debtors of the assigned claims and to notify the debtors of the assignment.
- (6) The customer will keep the items in our (co-)ownership in safe custody for us free of charge with the due commercial care and insure them against fire, burglary and other common risks. The customer is prohibited from pledging or assigning as security the goods delivered under reservation of title or the goods newly manufactured on our behalf. The customer must immediately notify us in writing of any seizure or any other impairment of our ownership rights by third parties and confirm the ownership right in writing both to the third party and to us. The customer bears the costs of any subsequent legal dispute.
- (7) We undertake to release the securities to which we are entitled at the customer's request insofar as the realisable value of our securities exceeds the claims to be secured by more than 10%; we have the right to choose which securities are to be released.
- (8) If the reservation of title pursuant to Para. 1 requires entry in a public register or other cooperation by the customer in order to be effective, the customer hereby irrevocably consents to such entry and undertakes to perform the necessary acts at its own expense.

Sec. 6

Liability for defects

We provide warranty for material defects and defects of title of the Delivery under exclusion of further claims - subject to Sec. 7 and Sec. 8 - as follows:

- (1) Our specifications regarding the properties of the delivery item are deemed to be its agreed quality, but not warranted properties or guarantees within the meaning of Sec. 443 of the German Civil Code (BGB). The property of the delivery item is conclusively described by expressly agreed performance features (e.g. specifications, markings, approvals, other information). A property of the deliveries and services other than that expressly agreed is not owed. A guarantee that goes beyond the guarantee of this property agreement for a specific purpose or a specific suitability, period of use or durability after the transfer of risk will only be accepted if this has been expressly agreed in writing; furthermore, the risk of suitability and use is the sole responsibility of the customer.
- (2) The limitation period for claims for defects is 12 months from the statutory commencement of the limitation period. This does not apply to goods which have been used for a building in line with their usual manner of use and have caused the defectiveness of such building; in this case the limitation period does not commence until 5 years after their delivery.

- (3) Claims of the customer due to a material defect require that it has duly fulfilled its obligations of inspection and notification of defects according to Sec. 377 of the German Commercial Code (HGB).
- (4) All parts which prove to be defective as a result of a circumstance prior to the transfer of risk are repaired or replaced at our discretion free of charge. We must be notified immediately in writing of the discovery of such defects. Replaced parts become our property.
- (5) If the complaint proves to be justified, we bear the expenses necessary for the subsequent performance, insofar as this does not result in a disproportionate burden on the seller. In the event of the sale of a newly manufactured item, we will also reimburse the expenses incurred by the customer within the scope of recourse claims in the supply chain to the extent of our legal obligation.
- (6) The customer has a right to withdraw from the contract within the scope of the statutory provisions if we - taking into account the statutory exceptions - allow a reasonable deadline set for us for the rectification or replacement delivery to expire without having fulfilled such obligation. If there is only an insignificant defect, the customer is only entitled to a reduction of the contract price.
- (7) If the customer intends to export or transfer the delivery item to a country or territory against which the United Nations, the European Union or the United States of America have imposed or put into force an embargo or other export or re-export restrictions or to use the delivery item for such a country or territory, the customer informs us of such intention in writing before conclusion of the contract. If the customer makes such a decision after the conclusion of the contract, such export, transfer or use requires our prior written consent. Notwithstanding the foregoing, the customer warrants that it (i) complies with the relevant export control regulations, including embargoes and other sanctions in force in Germany, the European Union and the United Nations and (ii) also complies with all other foreign export control regulations, including embargoes and sanctions, provided that Germany, the European Union or the United Nations have enacted regulations, embargoes or sanctions comparable to those in the countries concerned. In the event of resale of the delivery item by the customer, the customer will ensure through appropriate agreements that these obligations are passed on through the entire supply chain and up to the end customer with whom the delivery item remains. In the event of a breach of this provision, the seller is entitled to terminate the contract with immediate effect.

Sec. 7

Liability

- (1) If the delivery item cannot be used by the customer in accordance with the contract due to our fault as a result of omitted or faulty execution of suggestions and consultations made before or after conclusion of the contract or due to the breach of other ancillary contractual obligations - in particular instructions for handling or operating the delivery item, the provisions of Sec. 6, 7 Para. 2 and 8 apply accordingly to the exclusion of further claims of the buyer.

(2) We are only liable - for whatever legal reasons - for damage that has not occurred to the delivery item itself

- in the case of intent,
- in the event of gross negligence on the part of the owner/the organs or the executive employees,
- in the event of culpable injury to life, limb or health,
- in the case of defects which have been fraudulently concealed or if we have given a guarantee for the quality of the item,
- in the event of defects in the delivery item, insofar as liability is assumed under the German Product Liability Act (Produkthaftungsgesetz) for personal injury or property damage to privately used items.

In the event of culpable breach of essential contractual obligations, we are also liable for gross negligence on the part of non-executive employees and for slight negligence, whereby the later instance is limited to the reasonably foreseeable damage typical for the contract. Essential contractual obligations are those whose fulfilment makes the proper performance of the contract possible in the first place and on whose compliance the customer may regularly rely.

(3) We are liable for infringements of property rights in connection with the sale of our goods in accordance with the above provisions insofar as such property rights which are valid in the Federal Republic of Germany and published at the time of our Delivery are infringed when our goods are used in accordance with the contract. This does not apply if we have manufactured the goods according to drawings, models or other descriptions or information provided by the customer and did not know or, in connection with the goods developed by us, did not have to know that property rights of third parties would be infringed thereby. In this case, our customer is liable for any infringements of property rights which have already occurred or which may still occur. The customer is obliged to inform us immediately of any possible or alleged infringements of property rights of which it becomes aware and to indemnify us against claims of third parties and all costs and expenses incurred.

(4) Further claims for damages - irrespective of the legal grounds - are excluded. Insofar as liability for damages is excluded or limited, this also applies with regard to personal liability for damages on the part of our employees.

Sec. 8

Statute of limitations

All claims of the customer based on whatever legal grounds expire after twelve months; this also applies to the statute of limitations for claims of recourse in the supply chain pursuant to Sec. 445b (1) of the German Civil Code (BGB). The suspension of the statute of limitations according to Sec. 445b (2) remains unaffected. The statutory periods apply in the case of intentional or fraudulent conduct, in the case of culpable injury to life, limb and health and in the case of claims under the German Product Liability Act (Produkthaftungsgesetz).

Sec. 9

Confidentiality

- (1) The customer will keep secret from third parties any and all knowledge and information of a technical and business nature ("Secret Information") received from us within the scope of the supply relationship, even beyond the duration of the supply relationship, unless it can prove that this Secret Information (i) was already known or evident to the customer at the time it was obtained or later became evident through no fault of the customer or (ii) was demonstrably developed completely independently by the customer or (iii) was obtained by a third party without any breach of confidentiality obligations.
- (2) Documents disclosed by us relating to Confidential Information, in particular drawings, which are exchanged in the course of the cooperation, remain our property and must be returned to us upon request, at the latest upon termination of the supply relationship. The customer is not entitled to a right of retention with regard to Secret Information or documents or materials containing Secret Information.
- (3) The disclosure of Secret Information does not establish any rights to industrial property rights, expertise or copyrights for the customer and does not constitute a right of prior use within the meaning of the applicable patent, design and utility model laws. Any type of licence requires a written agreement.

Sec. 10

Documents, property rights

- (1) We reserve the ownership rights and copyrights to cost estimates, concepts, designs, drafts, drawings and other documents; they may not be changed and may only be made accessible to third parties with our consent. Drawings and other documents submitted by us in connection with offers must be returned to us at any time on request and in any case if the order is not placed with us.
- (2) If we have delivered items according to drawings, models, samples or other documents provided by the customer, the customer guarantees that the property rights of third parties are not infringed. If third parties prohibit us in particular from manufacturing and delivering such items by invoking property rights, we are entitled - without being obliged to examine the legal situation - to cease any further activity in this respect and to claim damages (see also Sec. 7 Para. 3). The customer also undertakes to indemnify us immediately against any and all claims of third parties in connection with the documents provided by it.

Sec. 11

Regulatory compliance

- (1) The customer maintains neither direct nor indirect business or other connections with terrorists, terrorist groups or other criminal or anti-constitutional organisations. In particular, the customer ensures the implementation of applicable embargoes, the European anti-terrorism and anti-crime regulations applicable in the context of the supply relationship as well as the corresponding US or other applicable regulations within the scope of its business operations by taking appropriate organisational measures, in particular by means of appropriate software systems. As soon as goods have left our respective premises, the customer is solely responsible for compliance with the above provisions and indemnifies us against any and all claims and costs incurred by us due to a corresponding violation of the law by the customer, its affiliated companies or employees, representatives or vicarious agents - including reasonable lawyers' and consultants' fees or administrative fees or fines.
- (2) We will duly observe the provisions of the European Chemicals Regulation No. 1907/2006 ("REACH") directly affecting us and will be liable in this regard pursuant to Sec. 7. The customer is solely responsible for any negative consequences resulting from inadequate information provided by the customer, in particular incorrect or incomplete instructions for use within the supply chain.

Sec. 12

Place of performance, place of jurisdiction, other agreements

- (1) The place of performance for any and all claims arising from the business relationship, in particular from our services, is Kitzingen.
- (2) The customer is only entitled to assign its claims arising from the contractual relationship with our prior written consent. The exclusive place of jurisdiction for any and all claims arising from the business relationship, in particular from our Deliveries, is Würzburg. This place of jurisdiction also applies to disputes concerning the conclusion and validity of the contractual relationship. However, we are also entitled, at our discretion, to sue the customer at the courts having jurisdiction over the customer's registered office.
- (3) If the customer has its registered office outside the Federal Republic of Germany, we are also entitled to have any and all disputes arising from or in connection with the business relationship with the customer, including disputes about the validity of contracts, finally settled under the Rules of Arbitration of the German Arbitration Institute e.V. (DIS) under exclusion of the ordinary course of law. At the customer's request, we will exercise this right of choice prior to the commencement of the proceedings. The arbitration court is located in Frankfurt a.M., Germany. The arbitration proceedings will be held in German unless the customer requests English as the language of the proceedings.
- (4) The law of the Federal Republic of Germany applies exclusively, excluding its international private law and the United Nations Convention on Contracts for the International Sale of Goods (C.I.S.G.) as well as other bilateral and multilateral agreements serving to standardise international sales.