

Terms and Conditions of Sale and Delivery MOECK & MOECK GmbH

1. Scope of application

- 1.1 These General Terms and Conditions of Sale and Delivery (hereinafter "Terms") apply to all present and future contracts for the sale and delivery of products (hereinafter "Products") between MOECK & MOECK GmbH, Waidmannstraße 12d, 22769 Hamburg (hereinafter "Seller") and entrepreneurs, legal entities under public law or special funds under public law as customers (hereinafter "Buyer").
- 1.2 Any deviating terms and conditions of purchase of the Buyer shall only apply if they have been expressly recognized by the Seller in writing.
- 1.3 The Seller is not obliged and not willing to participate in dispute resolution proceedings in front of a consumer arbitration board.

2. Offer and conclusion of contract

- 2.1 All offers of the Seller are subject to change and non-binding unless they are expressly marked as binding.
- 2.2 A contract is only concluded subject to the condition that the Seller confirms the Buyer's order verbally or in writing or when the products are delivered.
- 2.3 All agreements made between the Seller and the Buyer, as well as additions or amendments to agreements, must be made in writing.
- 2.4 The Buyer may only assign its claims against the Seller under this contract to third parties after the Seller's prior written consent.

3. Property rights

- 3.1 The Seller reserves all property rights and copyrights to all documents provided in connection with an order - also in electronic form - such as calculations, drawings etc. These documents may not be made accessible to third parties unless the Seller gives the Buyer its prior written consent. If the Seller does not accept the Buyer's offer in accordance with Section 2.2, these documents must be returned to the Seller without delay.

4. Prices and terms of payment

- 4.1 The prices are quoted in euros and are ex works of the Seller, plus the statutory value added tax and, if applicable, a handling fee, freight, customs duties and packaging.
- 4.2 Unless otherwise agreed in writing, payment of the purchase price shall be made without deduction within 14 days of the invoice date, stating the invoice number, exclusively by bank transfer to the account specified in the invoice.
- 4.3 The Buyer shall only be entitled to offset if his counterclaims have been legally established or are undisputed. The Buyer is only authorized to exercise a right of retention to the extent that his counterclaim is based on the same contractual relationship.

5. Delivery and transfer of risk

- 5.1 Unless otherwise agreed, delivery of the products shall be ex works of the Seller, delivery condition is EXW Hamburg (Incoterms 2020).
- 5.2 The risk of accidental loss or accidental deterioration of the products shall pass to the Buyer upon loading, at the latest upon leaving the Seller's factory/warehouse.
- 5.3 The Seller reserves the right to be exempted from the obligation to deliver in the event of non-availability of the goods by subcontractors.
- 5.4 The Seller is entitled to make partial deliveries to a reasonable extent. The Buyer may not reject these partial deliveries to a reasonable extent and must pay for them immediately upon receipt.

- 5.5 In the event of a delay in delivery due to circumstances for which the Seller is not responsible (e.g. strike, shortage of raw materials, shortage of energy, labor disputes at the Seller or its suppliers, war, pandemics or epidemics, force majeure), the delivery period shall be extended accordingly by the duration of the hindrance. The Seller shall inform the Buyer of such circumstances without delay.

6. Retention of title

- 6.1 The delivered products shall remain the property of the Seller (reserved goods) until all claims arising from the business relationship, regardless of their legal basis, have been fully and finally settled.
- 6.2 The Buyer is obliged to treat the products with care and to insure them appropriately. The Buyer is not entitled to sell, pledge or otherwise dispose of the products as long as the retention of title exists.
- 6.3 In the event of access by third parties to the reserved goods, in particular in the event of seizure, the Buyer is obliged to point out the Seller's ownership and to inform the Seller immediately.
- 6.4 In the event of breach of contract by the Buyer, in particular default in payment, the Seller shall be entitled to take back the goods subject to retention of title. Taking back the reserved goods does not constitute a withdrawal from the contract unless the Seller expressly declares this in writing. After taking back the goods subject to retention of title, the Seller shall be authorized to sell them; the proceeds from the sale shall be set off against the Buyer's liabilities less reasonable selling costs.
- 6.5 The Seller shall release the securities to which he is entitled at the Buyer's request if the realizable value of the collateral exceeds 110% of the value of the secured claim.

7. Obligation to inspect and give notice of defects

- 7.1 The Buyer shall inspect the delivered products immediately upon receipt and notify the Seller in writing of any recognizable defects without delay, at the latest within 3 (three) days of delivery, stating the invoice or shipping number. Hidden defects must be reported to the Buyer in writing immediately after their discovery in the ordinary course of business, otherwise the products shall be deemed to have been accepted without reservation. Any further obligations of the Buyer under Section 377 of the German Commercial Code (HGB) remain unaffected.

8. Warranty and statute of limitations

- 8.1 The Seller shall not be liable for damage caused by improper handling, storage or use of the products by the Buyer or third parties.
- 8.2 In the event of a liability claim, the Buyer is obliged to inform the Seller immediately in writing of the damage and to give the Seller the opportunity to inspect and rectify the defect.
- 8.3 The Seller's liability is limited to intent and gross negligence. In the case of simple negligence, the Seller's liability is limited to the breach of essential contractual obligations, i.e. obligations whose fulfillment is essential for the proper execution of the contract and on whose compliance the contractual partner may regularly rely. In this case, liability is limited to the foreseeable damage typical for the contract.
- 8.4 The Seller is not liable for loss of profit, indirect damage or consequential damage, unless these are based on intent or gross negligence on the part of the Seller.
- 8.5 Insofar as the Seller's liability is excluded or limited, this shall also apply to claims against its employees, representatives and vicarious agents.

- 8.6. The above exclusions and limitations of liability shall not apply in the event of injury to life, limb or health or in the event of fraudulent concealment of defects, the assumption of a guarantee for the quality of the products or in the event of mandatory statutory claims such as under the German Product Liability Act (ProdHaftG). Furthermore, the above exclusions and limitations of liability do not imply any change in the burden of proof to the detriment of the Buyer.
- 8.7. Contractual claims for damages and reimbursement of expenses against the Seller or its employees, representatives and vicarious agents shall become time-barred after one year. This limitation period shall not apply in the event of intent or fraudulent concealment of a defect or if the Seller has assumed a guarantee for the quality of the services. It shall be replaced by the statutory periods. The limitation period shall also not apply to claims for damages in the event of a grossly negligent breach of duty, in the event of culpable breach of material contractual obligations, i.e. obligations whose fulfillment is essential for the proper execution of the contract and on whose compliance the contractual partner may regularly rely, as well as in cases of culpably caused injury to life, limb or health or in the event of claims under the Product Liability Act. These shall be replaced by the statutory limitation periods.
- 8.8. The limitation period for claims for defects shall not be restarted by the rectification of defects or the replacement of defective products.
- 9. Confidentiality**
- 9.1. The Buyer is aware that the confidential information made available to it by the Seller was not previously known or readily accessible either in its entirety or in its details, is therefore of commercial value, is protected by appropriate confidentiality measures on the part of the Seller as owner and in which there is a legitimate interest in its confidentiality. If confidential information does not meet the requirements of a trade secret within the meaning of the German Trade Secrets Act, this information shall nevertheless be subject to the confidentiality obligations of the following provisions.
- 9.2. "Confidential information" within the meaning of this clause is - irrespective of whether it is designated as "confidential" or not - all information (whether written, electronic, oral, digitally embodied or in any other form) which is made directly or indirectly accessible by the Seller and/or third parties commissioned by the Seller to the Buyer as the recipient of the information or its authorized persons for the aforementioned purpose or which comes to the Buyer's knowledge in any other way. Confidential information includes, in particular, business secrets, products, manufacturing processes, know-how, inventions, business relationships, business strategies, business plans, financial planning, personnel matters, digitally embodied information (data) as well as analog and digital personal data.
- 9.3. Information shall only be deemed not to be confidential if it was already in the public domain at the time the Buyer became aware of it or became publicly known thereafter without a breach of this Agreement or confidentiality obligations on the part of the Buyer or authorized persons. The burden of proof for this exception lies with the Buyer.
- 9.4. "Authorized Persons" are the Buyer, its respective executive bodies and employees as well as companies affiliated with the Buyer pursuant to Sections of § 15 et seq. of the Aktiengesetz (German Stock Corporation Act) and their respective executive bodies and employees, provided that they are each subject to a confidentiality obligation towards the Buyer that does not fall short of the protection afforded by this clause.
- 9.5. Buyer shall treat the Confidential Information as strictly confidential and shall not reproduce or publish it without the Seller's prior written consent and shall not disclose or otherwise make it available to third parties who are not authorized persons and shall take appropriate precautions to protect the Confidential Information, but at least those precautions with which it protects particularly sensitive information about its own company or business activities.
- 9.6. The Buyer may only use the confidential information for the purpose of the contract; in particular, the Buyer shall not use the confidential information to gain any direct or indirect competitive advantage whatsoever over the Seller or its shareholders or companies affiliated with the Seller.
- 9.7. Upon Seller's request and without request at the latest after the purpose of the contract has been achieved, Buyer shall return to Seller or destroy (including electronically stored confidential information) all confidential information, including copies thereof, within ten (10) working days after receipt of the request or after completion of the project at Seller's discretion, unless the recipient of the information is obliged to retain it by law or by order of a competent court or competent authority or other body of public law or its own appropriate compliance or retention requirements.
- 9.8. Confidential information contained in files routinely stored electronically or stored due to emergency recovery processes (backup etc.) does not have to be deleted by the Buyer if this would only be possible with disproportionate effort. The confidential information obtained in this way must continue to be treated confidentially.
- 9.9. The Buyer shall inform the Seller immediately if the Seller, its respective bodies, employees or consultants become aware that confidential information has been disclosed in breach of this Agreement. The same obligation shall also apply if the Buyer is obliged to disclose confidential information of the Seller due to a legal obligation or a lawful official or court order.
- 9.10. The Seller shall provide the Buyer with the Confidential Information to the best of its knowledge and belief but assumes no responsibility to the Buyer and/or third parties for its accuracy and completeness. The Seller is not obliged to provide, update or correct confidential information.
- 9.11. To ensure the confidentiality of the Confidential Information, the Buyer undertakes to store all documents and materials containing Confidential Information in a sufficiently secure manner to adequately protect them against theft and any other unauthorized access and not to use, reproduce, process or store the Confidential Information in an externally accessible computer system that is not adequately secured.
- 9.12. Notwithstanding the rights under the German Law on the Protection of Trade Secrets, the Seller shall be entitled to all rights of ownership, use and exploitation with regard to the confidential information. The Seller reserves the exclusive right to apply for industrial property rights. The Buyer shall not acquire any ownership or - with the exception of use for the contractually agreed purpose - any other rights of use to the Confidential Information (in particular to know-how, patents applied for or granted thereon, copyrights or other industrial property rights) on the basis of this clause or otherwise due to implied conduct.
- 9.13. The Buyer shall refrain from commercially exploiting or imitating the confidential information itself in any way outside the contractually agreed purpose (in particular by means of "reverse engineering") or having it exploited or imitated by third parties and in particular from applying for industrial property rights - in particular trademarks, designs, patents or utility models - to the confidential information.
- 9.14. The obligation to maintain confidentiality shall also apply beyond the termination of the contractual relationship and shall remain in force for a period of 5 years after the end of the contract.
- 9.15. Any further rights and claims of the Seller with regard to the Confidential Information - including those under the German Law on the Protection of Trade Secrets - shall not be affected by this clause. The Seller's rights under this clause shall not be limited by the provisions of the German Law on the Protection of Trade Secrets or

other statutory provisions (subject to mandatory statutory law) or by any arrangements and agreements currently existing between the parties.

10. Place of performance, place of jurisdiction and applicable law

- 10.1. The place of performance for deliveries and payments under this contract is the Seller's place of business, unless otherwise stated in the order confirmation.
- 10.2. This contract and the entire legal relationship between the parties shall be governed by the laws of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).
- 10.3. If the customer is a merchant or a legal entity under public law or a special fund under public law, the place of jurisdiction for all legal disputes arising from this contract shall be Hamburg. The Seller may, however, sue the Buyer at any other place of jurisdiction in accordance with the German Code of Civil Procedure.
- 10.4. Should individual provisions of these General Terms and Conditions of Sale and Delivery be invalid, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by the provision that is customary in the industry for this case; in the absence of an admissible provision customary in the industry, the corresponding statutory provision shall apply.